

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83833 of 2023

Arising Out of PS. Case No.-1487 Year-2017 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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Ramashankar Chaudhary, Male, aged about 68 years, S/O Late Devnarayan Chaudhary R/O Village- Shiupur, P.S.- Shahpur, District- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Paras Mahto @ Parasnath Singh S/O Late Shivilagan Mahto R/O Village- Birpur, P.S.- Shahpur, District- Bhojpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar, Advocate
For O.P. No. 2	:	Mr. Raju Kumar Singh, Advocate
For the State	:	Mr. Anil Kumar Singh No. 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 19-03-2024 Heard Mr. Ravindra Kumar, learned counsel appearing on behalf of the petitioner; Mr. Raju Kumar Singh, learned counsel appearing on behalf of the opposite party no. 2 and Mr. Anil Kumar Singh No. 1, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Complaint Case No. 1487 (C) of 2017, registered for the offence punishable under Sections 418, 420 and 506 of the Indian Penal Code.

3. As per the allegation made in the complaint petition, the complainant had given Rs. 85, 000/- to the petitioner in advance as consideration money for executing sale deed with respect to Khata No. 14, Khesra No. 588 for sale of



total area 062.5 decimal of land but petitioner has not executed the sale deed in favour of the complainant.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and has falsely been implicated in the present case. The complainant, in support of his allegation that he had given Rs. 85,000/- to the petitioner in cash, has not adduced any evidence. He further submitted that the dispute as alleged in the complaint petition do not fall for any criminal prosecution being purely civil in nature and in this regard, learned counsel has relied upon a judgment passed by the Apex Court in case of *Murari Lal Gupta vs. Gopi Singh* reported in *(2005) 13 SCC 699*. Petitioner has clean antecedent. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned counsel appearing on behalf of opposite party no. 2 submitted that the complainant is poor and had full faith in the petitioner that he will convene the sale deed in his favour with respect to the land in question, but the same was breached by the petitioner, which led to filing of the complaint against the petitioner. He further submitted that the petitioner has breached the contract and has committed fraud and cheated the complainant by not registering the same deed with respect to



the land in question.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail. He submitted that the matter is purely civil in nature, however, the content of cheating and forgery is there and the learned District Court has already taken cognizance.

6. Considering the rival submissions made on behalf of the parties, as well as, the allegation made in the complaint petition by the complainant that the petitioner has cheated and committed fraud by not registering the land in question, this Court directs the complainant to adduce evidence in support of the allegation and the learned District Court is directed to release the petitioner on bail considering the fact that the Apex Court in case of *Murari Lal Gupta vs. Gopi Singh* reported in *(2005) 13 SCC 699* has held that the dispute being purely civil in nature, the parties have remedy before the Civil Court. In absence of any ingredient of Section 420 and 506, the petitioner cannot be allowed to face the prosecution.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his/her arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees



Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate- XIV, Bhojpur, in connection with Complaint Case No. 1487 (C) of 2017, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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