

Arising Out of PS. Case No.-405 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

... .. Petitioner/s

Versus

- Opposite Party/s

For the Petitioner/s : Mr. Abhay Shanker Singh, Advocate
For the Opposite Party/s : Mr. Harendra Prasad, APP
For the Complainant : Mr. Madhav Kumar, Advocate
Mr. Anubhav Pandey, Advocate

3. As per prosecution case, the petitioner, a JCB owner, entered into an agreement with the complainant for purchase of a JCB for an amount of ₹18 lakhs. Allegation against the petitioner is that he took the said amount of ₹18 lakhs in cash from the complainant, but instead of transferring



the JCB in his name, the petitioner transferred the ownership of JCB to one Hari Govind Gara.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner had sold his JCB to Hari Govind Gara as the entire consideration amount of the JCB was deposited by said Hari Govind Gara, who was the business partner of the complainant. No single penny was ever paid by the complainant in favour of the petitioner either in cash or in the bank account of the petitioner. The complainant failed to produce a single chit of paper to show that he has made payment to the petitioner. The story of the complainant is not believable that he has made payment of ₹18 lakhs in cash. The complainant has even tried to cheat his own business partner, Hari Govind Gara. In fact the complainant has been trying to extort money from the petitioner by putting him under the fear of undue harassment by way of frivolous litigation. In the facts and circumstances of this case, no offence under Section 384 of the IPC is made out against the petitioner. The Judicial Magistrate, while taking cognizance, has disbelieved the allegation of other offences against the petitioner and refused to take cognizance for those offences. The petitioner is having one criminal case, in which he is on bail.



5. Learned APP as well as learned counsel for the complainant oppose the submission made on behalf of the petitioner and submit that the complainant made payment to the petitioner all in cash.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the improbability of accusation in the light of claim of all cash transaction and the possibility of false implication of the petitioner, let the petitioner above named, in the event of arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand Only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Rosera, Samastipur /concerned court in connection with Complaint Case No. 405 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the



court below, if so required by the
learned trial court.

(Arun Kumar Jha, J)

Amrendra/-

U		T	
---	--	---	--

