

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.41215 of 2024

Arising Out of PS. Case No.-6798 Year-2021 Thana- PATNA COMPLAINT CASE District- Patna

Abhishek Ranjan Mishra Son of Ranjeet Kumar Mishra R/O Gargi Apartment, Flat no. 201 and 202, Near Lal Baba Market, Patel Nagar, P.S.- Shastri Nagar, Dist.- Patna Petitioner

Versus

1. The State Of Bihar
2. Anjan Kumar Sen Son of Late Amiya Sen R/O Flat no. A13, Jagat Bhawani Apartment, S.P. Verma Boring Canal Road, P.S.- Kotwali, Dist.- Patna Opposite Party/s

Appearance :

For the Petitioner : Mr. Rana Vikram Singh, Advocate
Mr.Pravashankar Mishra, Advocate
For the Opposite Party : Mr.Anuj Kumar Shrivastava, A.P.P.
Mr. Prince Khatri, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

8 30-01-2025 Heard learned counsel for the petitioner, the State and opposite party no.2.

2. The petitioner apprehends arrest in a case registered for the offence punishable under sections 420 and 120B of the Indian Penal Code.

3. As per the prosecution case, petitioner and other accused persons, named in the complaint, in connivance with each other embezzled Rs. 13 lacs of the complainant on the pretext of developing and making construction on his land. It is alleged that amount of Rs. 13 lacs was paid through cheque in the name of the petitioner. Accused persons neither developed the land of the complainant nor did they return his money.

4. Learned counsel appearing for the petitioner submits that land of the complainant was 15 feet deep and



accused persons filled it with soil to the road level and also erected boundary wall. During course of work, complainant frequently visited the site and being satisfied, he made payment in instalments. In the meantime, petitioner on enquiry, came to know that the plot in question is a litigated plot. Thereafter, petitioner showed his inability to enter into further development agreement unless the land is made litigation free. Learned counsel submits that the petitioner is still ready to enter into agreement to develop the land, provided the land is made litigation free. It is also the case of the petitioner that the dispute is of civil nature and the same does not attract criminal liability against the petitioner. Mere breach of agreement does not give rise to a criminal prosecution for cheating, unless fraudulent and dishonest intention is shown at the beginning of the transaction.

5. Learned counsel for the State and the opposite party no.2 oppose the prayer for bail.

6. Considering the aforesaid facts of the case, prayer for bail of the petitioner is allowed. In the event of arrest/surrender within eight weeks from today, let the petitioner, mentioned above, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate 1st



class, Patna in Complaint Case No. 6798C/2021, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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