

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.38030 of 2024**

Arising Out of PS. Case No.-2659 Year-2020 Thana- PATNA COMPLAINT CASE District-  
Patna

Surendra Kumar Son of Rangbahadur Singh Resident of Village - Flat no  
405,Vindhyambika Apartment , Manas Marg, Shivpuri, P.S.- Shastri Nagar,  
District – Patna ... Petitioner

Versus

1. The State of Bihar
2. M/S S.N Infracon Pvt. Ltd Company Incorporated Under The Companies Act  
Having Its Registered Office At A-29,Lower Ground Floor, Pandav Nagar,  
New Delhi 110092,Branch Office At Ram Nagar, Aiims Road,Ps -  
Phulwarisharif, District- Patna, Represented Through Its Director Mr.  
Ashwini Kumar Sinha,S/O - Sheolakh Pati Lal, ,R/O - Ram Nagar,Aiims  
Road, Ps- Phulwarisharif, Distt- Patna, At Present -16, Raj Sundar Complex,  
Vijay Nagar, Rukunpura, Ps- Rupaspur, District- Patna.

... .. Opposite Parties

**Appearance :**

For the Petitioner/s : Mr.Madhukar Anand, Advocate  
For the Opposite Party/s : Mr.Shyam Kumar Singh, A.P.P.  
Mr. Binod Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

7      20-01-2025                      Heard learned counsel for the petitioner, the State and  
the opposite party no.2.

2. Petitioner apprehends arrest in a case registered for  
the offence punishable under section 406 of the Indian Penal  
Code.

3. As per the prosecution case, complainant/ opposite  
party no.2 namely M/s S.N Infracon Pvt. Ltd, represented  
through its director namely Mr. Ashwini Kumar Sinha filed a  
complaint against the petitioner and co-accused Bhanu Pratap  
Singh stating, inter- alia, that they engaged in construction of  
multi storage building after obtaining development agreement  
from landlord. Complainant further alleges that in course of  
business transaction on 21-10-2014, accused persons offered to  
develop their land measuring 06 katha situated at Mauja



Mainpura, plot no. 1026 (part) and thereafter a development agreement was executed on 21-10-2014. Complainant further alleges that accused also agreed to sale 01 katha of land to the complainant out of the 06 katha for a consideration amount of Rs. 80 lacs, out of which the complainant paid Rs. 67 lacs to the accused in instalments by cash and bankers' cheque. It is further alleged that the development agreement was executed by the petitioner on the basis of a power of attorney dated 06-06-2013 given by co-accused Bhanu Pratap Singh. Accused persons promised to give the possession of the land within 06 months and also promised to handover updated land revenue receipt. However, after receiving the earnest money, accused persons failed to abide with the terms and conditions. It was also found that the land has some title defect, and when objection was raised, accused persons promised to give another land. Complainant alleges that with the consent of co-accused Bhanu Pratap Singh, the petitioner executed fresh agreement on 27-08-2015 for a land measuring 28.125 decimal having plot no. 1050, but later on this land was also found disputed. He further alleges that later accused persons refunded some money but still 58 lacs remaining to be paid.

4. Learned counsel appearing for the petitioner submits that as a matter of fact, complainant is a builder and has filed this case with false and concocted allegations only with a view to usurp the amount of Rs. 60 lacs, which was given by the petitioner to the complainant in shape of friendly loan and which is still due upon the complainant. In this regard, complainant had given a cheque to the petitioner which got dishonoured and Complaint Case No. 12188C/2022 was instituted against the complainant, in which process was issued



under section 138 of the NI Act. An agreement for cancellation of Development agreement dated 27-08-2015 was executed in between the petitioner and the complainant, where in under the complainant admitted that, he is unable to carry out the development agreement and due to the same it is being cancelled, as such the allegation that the lands in question were disputed is an afterthought. It is next submitted that it is not in dispute that petitioner in pursuance of power of attorney executed in his favour by co-accused Bhanu Pratap Singh with respect to the land in dispute, which pertains to Plot No.1026, Khata No.777, Tauzi No.5123, Thana No.2, Area 6 kathas entered into an agreement with the complainant on 21.10.2014 but thereafter a dispute arose. It is also submitted that petitioner has been falsely implicated in the instant case by the complainant alleging that the land belongs to Jal Parishad when the land belongs to co-accused Bhanu Pratap Singh, who had executed the power of attorney in favour of the petitioner, based on which, the aforesaid agreement was entered with the complainant. Learned counsel submits that since a dispute had arisen after entering into the agreement of the year 2014 with respect to the land in question as there was some defect in the title of the land as such the earlier agreement was cancelled and petitioner entered into a fresh agreement with the complainant on 27.08.2015 with respect to a plot of land pertaining to Khata No.326, Plot No.1050, Tauzi No.5123, Mauza-Mainpura, P.S. Phulwarisharif, Area 28.125 decimals. In any view of the matter, the dispute disclosed by the complainant/ O.P No. 02 is predominantly of civil nature, and the complainant has given the same a colour of criminal offence, which is nothing but an abuse of process of court.



5. Learned counsel appearing on behalf of the State and the complainant oppose the prayer for bail. Learned counsel for the complainant submits that there is specific allegation that petitioner under the power of attorney of landowner and co-accused Bhanu Pratap Singh, executed a development agreement with complainant, pursuant to which Rs.67 lacs in cash and through cheque was paid, but the land was also found disputed. Thereafter some money was returned by the accused persons but still Rs. 58 lacs remained due on the accused persons.

6. Considering the fact that the dispute is between the builder and the land owner and during the transactions two agreements were executed and the dispute is related with breach of agreement and the complainant does not make any averment so as to infer any fraudulent or dishonest intention of the petitioner from the inception of transaction coupled with the fact that the dispute is predominantly of civil nature, prayer for bail of the petitioner is allowed.

7. 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 1<sup>st</sup> class, Patna in Complaint Case No. 2659C/2020, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

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**(Prabhat Kumar Singh, J)**

