

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72888 of 2024

Arising Out of PS. Case No.-804 Year-2022 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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Sudhir Kumar S/O Late Arvind Kumar @ Late Arvind Kumar Atul R/O
Village- Muradalichak, P.S.- Nagarnausa, District- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kedar Prasad Son of Bhrispat Mahto R/o Mohalla- Bharaopar, P.S.- Laheri,
District- Nalanda

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Narayan Singh, Advocate Mr. Suraj Kumar Tiwari, Advocate
For the Informant/s	:	Mr. Shankar Kumar, Advocate
For the Opposite Party/s	:	Mr. Raj Ballabh Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

6 25-02-2025 Heard learned counsel for the petitioner; learned counsel

for the informant Mr. Shankar Kumar and learned APP for the

State.

2. The petitioner has prayed for regular bail in a case
registered for the offence punishable under Sections 406, 420
and 120B of the Indian Penal Code.

3. The case of the prosecution is that the petitioner came
at the house of the complainant and told about sale of land
situated at Mouza Mohanpur, Nalanda, area 156.25 dismil of
different khata and plots. Petitioner told that the land owner
executed an agreement in favor of him and decided to sale at Rs.



7,61,500/- per Kattha and on 04.04.2016 an agreement was made in between the parties, thereafter, Rs. 10,00,555/- was given to the petitioner and receipt paper was made. Rs. 93,20,555/- was given by the complainant to the petitioner on different dates and receipt was made by the petitioner. The complainant got information that Sudhir Kumar has sold the same land to other persons. The complainant requested him to execute the sale deed and after taking rest of the amount upon which he started procrastinating the complainant and he also got information that the amount deposited by complainant. The sale deed was executed in favor of the mother of other person. At last when the complainant requested the petitioner to execute the sale deed. Petitioner threatened him of dire consequences.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. He has got no criminal antecedent. From perusal of the order of the trial court, it transpires that trial court has opined that 20 dismal of land has been sold to the complainant, the consideration amount of which is 15,60,000/- and the trial court has found that Rs. 15,60,555/- is left with the petitioner. In concluding para, the trial court has observed that in para-21 of bail petition, petitioner has admitted



that he is ready to pay due amount if any. But from perusal of the para-21 of the bail petition of the petitioner, there is no such undertaking. It is next submitted that there has been an agreement between the parties and that it is just a case of civil nature. It is a case of breach of trust. The provisional bail was granted to the petitioner on the undertaking that he will pay the rest of the amount. Hon'ble Supreme Court has held various judgments that for recovery of the amount forum of bail should not be used. Admittedly, there was a tripartite agreement between the parties and from perusal of the agreement, it transpires that there is a condition that if the agreement was not followed, the complainant will be at liberty to take legal action. Since there is contractual relation between the parties, Section 420 is not attracted as the intention of the petitioner was not malicious, in its beginning. In my view, it is out and out case of civil nature. It is further submitted that the petitioner is languishing in judicial custody since 11.05.2024.

5. Learned APP appearing for the state and learned counsel for the informant have vehemently opposed the prayer of regular bail.

6. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is



inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Complaint Case No. 804C/2022 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Court of Sri Satrunjay Kushwaha, Judicial Magistrate, 1st Class, Biharsharif, Nalanda.

(Ashok Kumar Pandey, J)

Sudhanshu/-

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