

(2019) 07 JH CK 0060
In the Jharkhand High Court
Case No : A.B. A. No. 1201 Of 2019

Harish Chandra Tiwary

APPELLANT

Vs

State Of Jharkhand & Anr

RESPONDENT

Date of Decision : 01-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 406, 420, 506
Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2019) 07 JH CK 0060

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : P.C. Tripathy, D. K. Chakraverty

Final Decision : Allowed

Judgement

Heard the parties. Learned senior counsel for the petitioner filed the reply to the counter affidavit. Keep the same in the record.

Apprehending his arrest, the petitioner has moved this Court for grant of privilege of anticipatory bail in connection with Complaint Case no. 3181 of 2017 registered under Sections 120B, 406, 420, 506 of the Indian Penal Code and section 138 of N.I. Act.

The learned senior counsel appearing for the petitioner submits that the allegations against the petitioner is that the complaint-opposite party no. 2 has sold the land belonging to him for a consideration of Rs. 1,31,00,000/- out of which, Rs. 5,00,000/- was paid on 27.02.2017 and Rs. 10,00,000/- was paid on 18.04.2017 by the petitioner to the complainant-opposite party no. 2 and the petitioner issued four cheques in favor of the complainant of Rs. 24,00,000/- each and consequent upon the execution of the said sale deed, the complainant presented the cheque for encashment but the same got dishonored due to insufficient fund in the account of the petitioner. It is then submitted that the allegations against the petitioner are all false and in fact, the complainant

suppressed the fact that the said land sold by him was subject matter of Title Suit no. 195 of 1997 and the counterclaim filed in that suit and the cause of action of counterclaim arose on 05.10.2002 and 25.12.2003. Drawing attention of the court to page 26 of the brief, it is further submitted by learned senior counsel for the petitioner that in the said suit, the complainant- opposite party no. 2, who was defendant no. 3 and in the counterclaim of the said suit filed by defendant no. 5 of that suit was decreed in favour of the defendant no. 5 of that suit and defendant no. 3 of that suit i.e. the complainant- opposite party no. 2 herein along with the plaintiffs and defendant no. 1 of that case were permanently restrained from disturbing the peaceful possession of defendant no. 5 over the land which has been sold by the complainant- opposite party no. 2 to the petitioner. It is further submitted by learned senior counsel for the petitioner that as the petitioner came to know about the decree against the complainant- opposite party no. 2, he issued a legal notice dated 02.05.2018 to the complainant- opposite party no. 2 and consequently, to save his interest, he ensured that the cheques are dishonored because the complainant- opposite party no. 2 who executed the sale deed in respect of the land over which, he himself was not having the title and by suppressing the material fact the complainant- opposite party no. 2 received the advance amount. It is further submitted that though it has been alleged by the complainant that the petitioner is absconder in Complaint case no. 3161 of 2014 but the said case has been disposed of and it is not pending and the complainant- opposite party no. 2 misled this court by swearing false affidavit. It is also submitted by learned senior counsel for the petitioner that the said defendant no. 5 of the Title Suit no. 195 of 1997 has filed the execution case no. 109 of 2018 in the court of Civil Judge, Sr. Division, Ranchi against the complainant- opposite party no. 2 and the complainant- opposite party no. 2 has not challenged the said decree passed in the said counterclaim and also drawing attention of the court to page 26 of the brief which is part of the decree passed by learned Civil Judge, Se. Division- II, Ranchi in Title Suit No. 195 of 1997, learned senior counsel also submits that since the said suit was dismissed on contest so, the complainant- opposite party no. 2 was very much aware of the said suit but he deliberately, suppressed this material fact. It is then submitted that the allegations against the petitioner are false. Hence, it is submitted that the petitioner be given the privilege of anticipatory bail.

The learned Addl. PP and learned counsel for the complainant- opposite party no. 2 oppose the prayer for anticipatory bail of the petitioner.

Considering aforesaid facts and circumstances of the case, I am inclined to grant the privilege of anticipatory bail to the petitioner. Hence, in the event of arrest by the police or surrender within a period of four weeks from the date of this order, the petitioner shall be released on bail 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 Judicial Magistrate, Ranchi in connection with Complaint Case no. 3181 of 2017 subject to the conditions laid down under section 438 (2)

Cr. P.C.