

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 46155 of 2014

Arising Out of PS.Case No. -315 Year- 2013 Thana -DUMRA District- SITAMARHI

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Kishore Kumar Kaushlendra @ Kaushal @ Kishore Kaushalendra @
Kaushal Kumar S/o Basudeo Sah R/o village - Rupauli, P.S. Dumra,
District – Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

4. 03.03.2015 Heard learned counsel for the petitioner,
learned A.P.P. for the State and learned counsel for the
informant.

The petitioner seeks bail in Dumra P.S. Case
No. 315 of 2013 dated 19.11.2013 instituted under Sections
384/386/406/420/467/468 of the Indian Penal Code.

Learned counsel for the petitioner submits that
he is the cousin of the informant and the allegation is that the
tractor which was taken on hire purchase by the petitioner
was given to the informant after taking Rs. 3,14,000/- for
repaying the loan amount against the said tractor but the
same was not returned to the financier who ultimately took
away the vehicle from the possession of the informant. Learned
counsel submits that the allegation is false since the petitioner
had never transferred the vehicle to the informant and thus



there could not have been any irregularity. It is submitted that even as per the allegation, the cause of action arose on 06.05.2012 whereas the complaint was filed only on 19.10.2013 and for the delay there is no explanation. Learned counsel submits that there was no Panchayati held in the village and furthermore, if at all there is any dispute with regard to exchange of money, the same being a civil dispute, the informant has a right to approach the Civil Court of competent jurisdiction for recovery of such money and thus the criminal proceeding is abuse of the process of the Court. It is further submitted that co-accused who was only a guarantor on the loan taken by the petitioner for buying the tractor but has also been made an accused in the present case has been granted anticipatory bail by a co-ordinate Bench of this Court on 08.07.2014 in Cr. Misc. No. 27187 of 2014. Learned counsel submits that the petitioner having no criminal antecedent is in custody since 20.09.2014. It is further submitted that the police has submitted final form treating it to be a case of lack of evidence.

Learned A.P.P. and learned counsel for the informant oppose the prayer for bail. It is submitted that despite the final form, the Court has taken cognizance under Section 420 of the Indian Penal Code against the accused. It is further submitted that the petitioner has neither ensured that the tractor bought by the informant or the money taken by him

is returned. It is submitted that the informant has relied upon the petitioner as he was his cousin and there was no occasion to distrust him right from the very beginning.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in Dumra P.S. Case No. 315 of 2013. The petitioner shall cooperate in the trial and be present before the Court on each and every date. Failure to cooperate or appear on two consecutive dates, without sufficient cause, shall lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J.)

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