

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 47802 of 2015

Arising Out of PS.Case No. -65 Year- 2015 Thana -ARA NAGAR District- BHOJPUR

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Narayan Upadhyay Son of late Dasrath Upadhyay resident of Village-
Babhangawan, P.S. Krishnagarh, District Bhojpur at present residing at
Anand Nagar P.S. Ara Town, District Bhojpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

3 09-11-2015 Heard learned counsel for the petitioner,

learned A.P.P. for the State and learned counsel for the

complainant/informant, who has suo motu appeared.

The petitioner apprehends arrest in Ara Town
P.S. Case No. 65 of 2015 dated 18.02.2015 instituted under
Sections 406/420/323/504 of the Indian Penal Code.

The allegation against the petitioner is that
despite taking some money from the complainant/informant
who is his full brother, the same was not returned and the
petitioner is said to have become aggressive.

Learned counsel for the petitioner submits that
from the plain reading of the complaint, it is obvious that no
criminal offence is made out as even if the allegations are
accepted to be true, they are of a purely Civil nature, for which
the petitioner has the remedy of approaching the Civil Court of

competent jurisdiction for recovery of his money by filing a money suit. It is further submitted that the petitioner has clean antecedent.

Learned A.P.P. does not dispute that the allegations disclose are civil dispute.

Learned counsel for the complainant/informant opposes the prayer for anticipatory bail and submits that the criminal offence has been made as despite the petitioner agreed to return the money, he did not do so. However, he is not in a position to controvert the fact that for recovery of money, there is provision in law for filing money suit.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon 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, Bhojpur at Ara in Ara Town P.S. Case No.65 of 2015, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J.)

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