



IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18617 of 2016

Arising Out of PS.Case No. -393 Year- 2013 Thana -PATORI District-
SAMASTIPUR

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Dharni Kant Sharma @ D.K. Sharma, Field Officer,
Collection, Posted at Muzaffarpur, Magma ITL Finance Ltd.,
S/o Devi Sharma, Resident of : Radha Krishna Market, 2nd
Floor above Axis Bank, G.D. College Road, Begusarai, P.S.-
Begusarai Sadar, District-Begusarai, Pin Code-851101.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Manish Kumar Tuntun, S/o Sri Parikshan Mahto, Village-
Dhamon Utari, P.O. + P.S.-Patauri, District-Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh, Adv.
For the State : Mr. Upendra Kumar (App)
For the Informant-O.P. No.2:Mr. Dhananjay Kr. Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

3 12-07-2016 Heard the parties.

 This application, for grant of anticipatory bail,
arises out of Patory P.S. Case No.393 of 2013,
disclosing offences under Section 406 read with

Section 34 of the Indian Penal Code.

The informant-opposite party No.2 had purchased a tractor, which was financed by Magma ITL Finance Ltd. from the dealer, namely, Maa Bhawani Tractors and Agro Equipments, Dharmapur, Tajpur Road, Samatipur. The petitioner, who was associated with said Magma ITL Finance Ltd., is said to have taken possession over the said tractor on the ground of failure on the part of the informant-opposite party No.2 to repay the loan.

Learned counsel, appearing on behalf of the petitioner, has submitted that no offence, under Section 406 of the Indian Penal Code, is made out against the petitioner on the basis of what has been alleged in the First Information Report. He has further submitted that the police had initially found the case to be a mistake of fact, but subsequently, under certain directions of Human Rights Commission, the matter has again been inquired. He has also submitted that it is a pure question of accounting, which can be settled between the parties.

Learned counsel, appearing on behalf of the informant-opposite party No.2, on the other hand, has



vehemently opposed the prayer for anticipatory bail and has submitted that even the Company had not authorized the petitioner to seize the vehicle and there was no occasion for the petitioner to have taken possession over the vehicle, particularly when the informant-opposite party No.2 was making payment of his installments, as required under the agreement.

Considering the facts and circumstances of the case and the nature of dispute involved, I am of the view that no purpose would be served if the petitioner is taken into custody.

This application is, accordingly, allowed. Let the petitioner, abovenamed, in the event of his arrest or surrender before the court below within six weeks, be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of **learned Chief Judicial Magistrate, Samastipur**, in connection with **Patory P.S. Case No.393 of 2013**, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the

police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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