

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19049 of 2017

Arising Out of PS.Case No. -622 Year- 2016 Thana -KHAGARIA District- KHAGARIA

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Pawan Kumar Son of Sri Nageshwar Prasad Singh Resident of Village-
Mathurapur Sonbarsha, P.S. Khagaria District-Khagaria,

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bharat Bhushan

For the Opposite Party/s : Smt. Reena Sinha

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

3 01-07-2017 Heard the learned counsel for the petitioner, the

learned A.P.P. for the State as also the learned counsel for the

Informant.

In this application for anticipatory bail the petitioner
apprehends his arrest in connection with Khagaria P.S. Case No.
622 of 2016 for the offences punishable under sections 420, 406
and 504 of the I.P.C.

Allegedly, the deceased, son of the informant, had
taken Rs. 4,00,000/- from the petitioner on mortgage of ornament
and after death of his son when the informant came to the
petitioner to pay money and get the ornament returned, the
petitioner told him that the amount was taken on interest at the rate
of 5%. Thereafter the informant managed the amount and paid the



entire amount of Rs. 13,00,000/- , upon which the petitioner assured him to return the ornament within a week, but the petitioner did not return the ornament and when the informant demanded ornament the petitioner abused him and refused to return the same.

Submission is of false implication, the entire allegations are fabricated and concocted, there is no material in the case diary against the petitioner, the informant is a criminal and anti-social element who threatened the petitioner to return the ornaments without payment of amount received by his son and on refusal by the petitioner the informant falsely implicated the petitioner in this case, during supervision by the Dy. S.P. no case was found regarding payment of Rs. 13,00,000/- to the petitioner and as such the petitioner deserves sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for pre-arrest bail of the petitioner by submitting that the petitioner has been given benefit under section 41 (1) of the Cr.P.C and as such this anticipatory bail application is not maintainable. Earlier summon was issued against the petitioner but he did not appear and after considering the service report of summon non-bailable warrant has been issued.



In the facts and circumstances as stated above, considering the allegation attributed against the petitioner, I am not inclined to grant privilege of pre-arrest bail to him and accordingly his such prayer stands rejected in connection with the aforementioned case pending in the court of C.J.M. Khagaria.

However, in view of the fact that the petitioner has been given benefit under section 41 (1) of the Cr.P.C. and as such he must surrender and seek regular bail and then the learned court below shall consider his regular bail application in the light of the fact that he has been granted benefit under section 41 (1) of the Cr.P.C, preferably on the same day.

(Jitendra Mohan Sharma, J)

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