

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30471 of 2019

Arising Out of PS. Case No.-14 Year-2016 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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NAGENDRA PANDEY Son of Late Chandra Dev Pandey, Resident of
Village-Matihaniya, Salehpur, Police Station-Bishambharpur, District-
Gopalganj.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Brahma Sharma Son of Late Shiv Gulam Sharma, Resident of Village-
Matihaniya, Salehpur, Police Station-Bishambharpur, District-Gopalganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pritish Ranjan
For the Opposite Party/s	:	Mr. Umeshanand Pandit
For O.P. No. 2	:	Mr. Naresh Prasad

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 22-08-2019 Heard learned Counsel for the petitioner, learned

Counsel for the Opposite Party No. 2 and learned Additional

Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises
out of Complaint Case No. C-14 of 2016, in which cognizance
has been taken against the petitioner under Sections 420 and 406
of the Indian Penal Code.

The allegation against the petitioner, as per the
complaint, is that the petitioner was given a loan of Rs.
4,15,267/- by the complainant in three transactions, starting
from 2010, for which an agreement was entered into between



the parties and a piece of land was allegedly mortgaged or pledged by the petitioner in favour of the Opposite Party No. 2. Further allegation is that the petitioner failed to refund the loan amount, despite repeated reminder made by the complainant. As such, it has been alleged that the petitioner has committed criminal breach of trust and cheating.

Learned Counsel for the petitioner submits that from perusal of the complaint, it appears that in abuse of the process of the criminal law, the present complaint has been filed with malafide intention. He further submits that from perusal of the complaint on its face value, at best, it gives rise to civil dispute and dispute between the parties is of money transactions. He further submits that the agreements, which has been annexed along with the counter affidavit, were not prepared in presence of the petitioner and only blank signed papers was taken by the complainant from the petitioner, in which the agreements have been written down unilaterally.

On the other hand, learned Counsel appearing on behalf of the Opposite Party No. 2 vehemently opposes the prayer for anticipatory bail and submits that the petitioner has committed criminal breach of trust and has misappropriated the amount entrusted to the petitioner by the complainant and the



petitioner has signed in the agreements along with revenue stamps and it is incorrect to say on the part of the petitioner that only blank signed papers were given by the petitioner.

After having heard learned Counsel for the parties and taking into consideration the fact that from perusal of the complaint, it appears that loan of Rs. 85,209/- was allegedly given by the complainant in the year 2010 and another loan of Rs. 1,80,058/- was also given to the petitioner in the year 2010 and further a sum of Rs. 1,50,000/- was given to the petitioner on 04.01.2016, i.e. just before filing of the present complaint and from perusal of the third agreement of Rs. 1,50,000/-, it appears that the signature of the petitioner is not over there. Further it appears that there was money transactions between the parties relating to loan, as such, I am inclined to grant the petitioner privilege of anticipatory bail. Accordingly, this application is allowed.

Let the petitioner, Nagendra Pandey, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 10th Additional Chief Judicial Magistrate, Gopalganj, in connection with Complaint Case No.



C-14 of 2016, subject to the condition laid down under Section
438 (2) of the Code of Criminal Procedure.

Prabhakar Anand/-

(Anil Kumar Sinha, J.

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