

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17458 of 2020**

Arising Out of PS. Case No.-497 Year-2019 Thana- DARBHANGA SADAR District-
Darbhanga

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LALAN PRASAD SINGH Son of Late Sudama Singh @ Sudama Prasad
Singh Resident of Mohalla- Anwarganj, Hospital Road (Laheriasarai), P.S.-
Laheriasarai, District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Sameer Ranjan, Advocate
For the Opposite Party/s	:	Mr.Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Sandip Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 08-09-2020 Heard learned counsel for the petitioner, Mr. Anuj
Kumar Srivastava, learned APP for the State and Mr. Sandip Kumar,
learned counsel representing the informant.

The petitioner in the present case is seeking pre-arrest bail
in connection with Sadar P.S. Case No. 497 of 2019 registered for the
offences punishable under Sections 406, 420, 467, 468, 469, 379,
506, 120B of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the
allegations made in the First Information Report this petitioner was
engaged by the informant as an employee to look after the “ Gauri
Petroleum” at village Chakka Lal Shahpur under Sadar police station
at Dharbhanga. The informant claimed that the said petrol pump was
though established by his father but after his father’s death the
petitioner and other co-accused developed an intention to cheat and
commit fraud and with that intention they have misappropriated a



sum of Rs.25-30 lakhs since the month of April 2019 and they have failed to give accounting of the said amount. On demand, it is alleged that the accused persons threatened the informant to kill and they also took out the papers with them.

It is submitted on behalf of the petitioner that both the petitioner and the informant come from the same family. The father of the informant and the petitioner were brothers. It is submitted that the father of the informant had established a Trust namely “Om Seva Trust” which is a charitable and educational trust. This petitioner happens to be the cousin brother of the informant’s father. A family dispute is said to have started with respect to various properties of the family.

It is submitted that because of the siphoning of the Trust money for personal use by the informant the Board of Trustees removed the informant from the Trust Board by a majority vote on 11.02.2019. It is further submitted that at the instance of the informant a Title Suit bearing No. 234 of 2019 has been filed through his mother for declaring her a Chairman of the Trust against the petitioner who is one of the trustees of the said Trust. The mother of the informant has though died, the suit is still pending in the court of learned Sub-Judge 1st, Dharbhanga.

It is then pointed out that there is another eviction suit going on and various other kinds of litigations are there between the parties, therefore, the whole dispute is that of the civil nature and the



same is now being sought to be given a colour of criminal proceeding. It is submitted that in any case in the nature of allegations and the kind of disputes between the parties the petitioner deserves privilege of anticipatory bail, he has otherwise no criminal antecedent.

Mr. Anuj Kumar Srivastava, learned APP for the State has opposed the prayer for anticipatory bail of the petitioner as according to him there are allegations against the petitioner of siphoning of money while working as an employee in the petrol pump of the informant.

Mr. Sandip Kumar, learned counsel representing the informant has in his usual vehemence opposed the prayer of anticipatory bail. Learned counsel has taken this Court through the counter affidavit and supplementary counter affidavit filed on his behalf saying that there are certain materials which have not come in course of investigation, therefore he has brought it on the record to show that this petitioner had been filing his income-tax returns showing his income from salary which goes a long way to show that the petitioner was an employee in the petrol pump which he cannot deny at this stage.

It is submitted that it is not a case of property dispute between the parties and as such even if to some extent there may be a civil dispute, it cannot be said that the ingredients of criminal proceeding are not available there. Learned counsel has relied upon



the judgment of the Hon'ble Supreme Court in the case of **Rajesh Bajaj vs. State NCT of Delhi & Ors.** reported in **AIR 1999 SC 1216** to submit that if the ingredients of the criminal proceeding are available a criminal case may be maintained.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the informant has made an allegation that this petitioner had been looking after the petrol pump right from the days of his father and then the petitioner has been involved in misappropriation of Rs.25-30 lakhs because he along with the co-accused has failed to give the accounts but in course of investigation the materials collected by the investigating officer shows that the parties are closely related and even the brother of the informant in course of his examination by I.O. has made statements that the dispute which started from the Dental College has now extended to the petrol pump in question and has stated that the properties have not been partitioned among themselves. The said statement of the brother of the informant find recorded in paragraph '46' of the case diary, even otherwise the allegations considered in its entirety are clearly indicating that this petitioner along with others were involved in looking after the petrol pump and now there is a dispute over the accounting of money, the parties are litigating in several proceedings and while the petitioner is claiming that this petrol pump comes under the Trust property and because the informant has been removed from the Trust the present case has been



lodged, the informant is claiming that it is his sole property, the nature of dispute being such that this Court is inclined to grant privilege of anticipatory bail to the petitioner, let the petitioner above named in the event of his arrest or surrender within a period of four weeks from today in connection with Sadar P.S. Case No. 497 of 2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Darbhanga, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

The application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

