

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.18366 of 2021**

Arising Out of PS. Case No.-1935 Year-2018 Thana- EAST CHAMPARAN COMPLAINT  
District- East Champaran

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Santosh Kumar Singh Son of Nemilal Singh Resident of Village-  
Khaudipakar, P.S.- Harsidhi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pankaj Kumar Dubey Son of Late Jagarnath Dubey Resident of Village-  
Bankatwa, P.S.- Paharpur, District- East Champaran

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Abhishek Kumar

For the Opposite Party/s : Mr. A.G

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**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR**  
**ORAL ORDER**

2      15-12-2021                      Heard learned counsel for the petitioner and  
  
learned APP for the State.

Learned counsel for the petitioner is expected  
  
to honour his undertaking given in the instant case for  
  
depositing the requisite court fee and to remove the  
  
defects as pointed out by the office when called upon to  
  
do so by the office.

The petitioner is apprehending his arrest in a  
  
case registered for the offences punishable under Section  
  
406 of the Indian Penal Code.



The complainant as per complaint petition has alleged that on 23.05.2018, J.C.B machine was burnt by petrol-bomb by the villagers in the field of the complainant for which Paharpur P.S. Case No. 130 of 2018 was lodged. The aforesaid J.C.B machine belongs to the accused persons, which was released by the Court and on 21.08.2018, the said J.C.B. machine took out from the field of the complainant. The accused persons talked with the complainant to sell the said J.C.B machine and consideration amount was fixed as Rs. 15,00,000/- out of which the complainant gave Rs. 14,00,001/- to the accused on 24.08.2018 in presence of the witnesses as advance. It is further alleged that earlier the complainant gave a cheque of Rs. 11,00,000/- to the accused and the accused assured that he will return the said cheque, but the accused took J.C.B. machine for fixing wheels and thereafter, the accused refused to give said J.C.B machine to the complainant or to return his cheque and money. The



complainant got stopped payment of the said cheque from the bank and when the accused presented the cheque before the bank, the same could not be encashed. In this way, the accused grabbed the cash amount of the complainant given by him to the accused and committed breach of trust.

It is submitted by learned counsel for the petitioner that truth of the matter is that the petitioner handed over the J.C.B machine to the complainant on an assurance that the complainant will give money to the petitioner but the complainant did not give money to the petitioner and the J.C.B. machine got burnt in the field of the complainant for which Paharpur P.S. Case No. 130 of 2018 has been registered against the accused persons. It is further submitted that it is a civil nature of dispute for which the petitioner cannot be prosecuted in a criminal proceeding. A statement has been made in para 3 of the petition that petitioner has no criminal antecedent.



In the facts and circumstance of the case, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-(Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Trial No. 3445 of 2018, arising out of Complaint Case No. 1935 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

**(Sunil Kumar Panwar, J)**

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