

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31826 of 2020

Arising Out of PS Case No.-782 Year-2019 Thana- KHAJANCHI HAT District- Purnia

Pankaj Kumar Mishra, aged about 37 years, Male, Son of Late Dinbandhu Mishra, Resident of Village - Sheranchak, PS- Ballia, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Soni Srivastava, Advocate
For the State	:	Mr. Dashrath Mehta, APP
For the Informant	:	Mr. Ashok Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 26-02-2021

Heard Ms. Soni Srivastava, learned counsel for the petitioner; Mr. Dashrath Mehta, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Ashok Kumar Jha, learned counsel for the informant.

2. The petitioner apprehends arrest in connection with Khajanchi Hat PS Case No. 782 of 2019 dated 21.10.2019, instituted under Sections 406, 420 and 506/34 of the Indian Penal Code.

3. The allegation against the petitioner is that he had got into some business relationship with the informant in which the informant had invested good amount of money and lastly he also had taken loan from the saving bank account of his wife of Rs. 3



lakhs and it was with the understanding that the petitioner would repay the installment but when the same was not paid, there was mediation in the family and thereafter the petitioner is said to have paid his installment of Rs. 11,000/- for a few months after which it is alleged that the same was also stopped and further that efforts for reconciling the account was also not hid by the petitioner.

4. Learned counsel for the petitioner submitted that from the plain reading of the FIR itself, it is apparent that the entire allegation is of purely civil nature, inasmuch as, the dispute is one and only i.e., monetary. It was submitted that though there is no material, much less, admissible in law even to indicate that any amount was given to the petitioner, but even for the sake of argument, if it is accepted that money was taken by the petitioner from the informant, then also, the only forum for recovery is by filing money suit as also for compensation of damages as the informant may deem appropriate. It was submitted that such things require evidence to be adduced and once there is nothing on record and in fact in the FIR itself, no such evidence has been even referred to, all the more reason that it requires a thorough trial where parties will be at liberty to adduce evidence in the face of there being no existing admissible evidence available on record. Learned counsel submitted that both the parties are in business of



motor parts and there is also business rivalry and this may be a cause for some heart burning. It was further submitted that the petitioner has no criminal antecedent.

5. Learned APP submitted that the petitioner is alleged to have taken away Rs. 3 lakhs but failed to return.

6. Learned counsel for the informant submitted that the actual amount taken by the petitioner, all through bank transactions, is Rs. 3 lakhs but the total is Rs. 8.50 lakhs and the petitioner was given ample opportunity for reconciling the account/matter and returning the due of the informant, but he not only chose not to return the money but had also threatened with dire consequences.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnea in Khajanchi Hat PS Case No. 782 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the



petitioner and (ii) that the petitioner shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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