

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 9523 of 2021**

Arising Out of PS. Case No.-712 Year-2019 Thana- MOTIHARI TOWN District- East
Champaran

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Amit Kumar Singh, Son of Late Nandan Singh @ Late Jivnandan Singh
Resident of C/O Professor Shri Anil Anal, Mohalla New Agarwa Motihari,
PO and PS - Motihari, District East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. PK Shahi, Senior Advocate with Mr. Arun Kumar, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 29-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 20.07.2021, which was allowed.

3. Heard Mr. PK Shahi, learned senior counsel along with Mr. Arun Kumar, learned counsel for the petitioner and Mr. Navin Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.



4. The petitioner apprehends arrest in connection with Motihari Town PS Case No. 712 of 2019 dated 12.10.2019, instituted under Sections 409, 420, 327 and 387 of the Indian Penal Code.

5. The allegation against the petitioner is that he had taken Rs. 25.40 lakhs from the complainant/informant but the same was not returned and was invested in the petitioner buying a flat for himself and later the parties came into a partnership and in that also it is alleged that the petitioner had misappropriated Rs. 30.99 lakhs from the joint account and the remaining about Rs. 20.5 lakhs which was lying in the joint account, despite *Panchayati* was not being returned to the complainant/informant by the petitioner and further, that four trucks of the complainant/informant, taken on hire by the petitioner were not given their hiring charges. It has also been alleged that the petitioner had threatened the informant with dire consequences.

6. Learned senior counsel for the petitioner submitted that from the entire reading of the FIR, the case relates to money dispute which is purely civil in nature and for which the criminal proceeding is an abuse of the process of the Court. It was submitted that there is nothing to indicate that there was any criminal act involved as in the FIR itself, it was admitted that



there was a dispute among partners and most importantly, it has been stated that whatever amount was remaining, was under a Panchayati requiring to be returned by the petitioner to the complainant/informant and it is not a case that the amount has been withdrawn by the petitioner. Learned senior counsel submitted that the present case was a counter to put up a defence in view of Motihari Town PS Case No. 567 of 2019 filed by the petitioner against the complainant/informant dated 12.08.2019 under Sections 409,341, 323 and 504/34 of the Indian Penal Code which also relates to dispute regarding money between the two sides and also other allegations of assault etc. It was submitted that the present case being filed as a complaint which was later sent to the police and converted into an FIR, itself goes to show that it was a late reaction for countering the case filed much earlier by the petitioner. Learned senior counsel submitted that against the petitioner there are two complaint cases and one police case and in one case, there has been a compromise, in the second case the police has submitted final form against the petitioner not sending him up for trial whereas in the third case, he is on bail.

7. Learned APP submitted there is allegation of petitioner having embezzled the money of the



complainant/informant. However, it was not controverted that the entire allegation relates to money dispute between the parties.

8. 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, Motihari in Motihari Town PS Case No. 712 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate



action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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