

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17917 of 2022

Arising Out of PS. Case No.-170 Year-2021 Thana- KHODAWANDPUR District- Begusarai

MD. NAKI AHMAD SON OF LATE MD. RIZWAN R/O VILLAGE- SAGI,
P.S.- KHODAWANDPUR, DISTRICT- BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Yadav, Advocate

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP
Mr. Sandip Kumar Gautam, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-09-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 341, 325, 406 and 420 of the Indian Penal Code.

The informant alleges that he had ancestral land measuring thirteen *kattha* and nine *dhur* which was partitioned among his four brothers and each brother received three *Katha* seven *dhur* of land, it is next alleged that informant's brother Md. Safi and Md. Zaki sold their share of land to the informant, it is further alleged that 7 years ago his brother Md. Naki Ahmed (petitioner) had given proposal to him for a joint business venture of hardware, in pursuance whereof informant



had given Rs. 12 lakhs in cash and Rs. 8,70,000/- through bank to the petitioner who is his own brother. Further, it is alleged that on 14.06.2021, the informant came from Kolkata and on the next day went to the shop of the petitioner to verify the accounts but the petitioner became furious and misbehaved, further on 16.06.2021 at about 9:00 a.m., informant again went to the shop of the petitioner and requested him to show the accounts and also asked to return his land and money with profit which comes to Rs. 25 lakhs plus 50 percent profit of the business and on hearing this the petitioner assaulted the informant with *lathi* causing injury on his right knee but he was rescued.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and has been falsely implicated in the present case, it is next submitted that a civil dispute has been given colour of a criminal case, the date of occurrence is 16.06.2021 but the F.I.R. was instituted on 03.08.2021 i.e., after a delay of nearly more than 40 days without any plausible explanation. Learned counsel further submits that from perusal of the allegation it manifests that there is a business dispute between brothers and if money has been invested and land has been given as part of share in the business by the informant and if the petitioner now is resiling from the



agreement or contract then the informant has remedy available under civil law to get back his share or money which he claims to have invested but definitely criminal case is an abuse of the process of the Court, it is also submitted that as far as allegation of assault is concerned, the occurrence did take place but it was the informant who was the aggressor as he had come to the shop of the petitioner and was creating ruckus in which a fight between the brothers did take place but then the assault is not on the vital part of the body.

Learned counsel for the informant submits that the injury suffered by the informant is grievous in nature but is not able to rebut the submissions of the learned counsel for the petitioner that the dispute is civil in nature and the injury is not on vital part of the body.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount



each to the satisfaction of the learned court below where the case is pending/successor court in connection with Khodawandpur P.S. Case No. 170 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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