

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43351 of 2021**

Arising Out of PS. Case No.-29 Year-2020 Thana- PIRPAINTI District- Bhagalpur

Nirmal Sah S/o - Tarni Sah Resident of Village - Dhanauri, P.S. - Sahokhar,
Dist. - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vibhakar Kumar, Advocate
For the Informant	:	Mr. Abhay Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Madhura Nand Jha, APP

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

4 01-02-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State through virtual Court proceedings.

The petitioner seeks bail in connection with Pirpainti P.S. Case No. 29 of 2020 instituted for the offences under Sections 406, 420, 504, 506 and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 09.03.2021, is a person with clean antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that the informant alleges that he had purchased a truck after taking loan from Tata Finance Company and thereafter entered into an agreement for two years with the petitioner and Sumant Kumar



Sah, further that the accused would pay Rs. 65,000/- per month for using the truck in view of the agreement entered. It is further alleged that after entering into the agreement, the petitioner and Sumant Kumar Sah took the truck of the informant and started using it but they neither paid the monthly rent as agreed nor returned the truck.

Learned counsel for the petitioner submits that admittedly in the nature of allegation, the dispute in the present case is civil in nature as there was an agreement and the informant alleges breach of the same, but the learned counsel fairly submits that the agreement was entered as alleged and the amount of Rs. 65,000/- per month was to be paid to the informant. It is further submitted that certain amount has been paid and as of date only an amount of Rs. 7 lakh is due which is to be paid to the informant.

Learned counsel for the informant vehemently opposes the prayer for bail of the petitioner and even rebuts the submission of the learned counsel for the petitioner and submits that the petitioner and Sumant Kumar Sah with a view to cheat the informant had entered into the agreement knowing from the beginning that they would not pay the amount and thus would cheat the informant. Learned counsel also submits that the truck



was not returned and it was found in an abandoned condition with many of its parts missing and on account of the conduct of the petitioner and Sumant Kumar Sah, the informant is facing hardships as he has to pay the loan amount to the Tata Finance Company in absence of any income from the said truck and also that the truck recovered is in such a position that the same cannot be used for any further purpose.

Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that the F.I.R. does not even remotely suggest that the petitioner had entered into an agreement with an intention to cheat right from the beginning but agrees to pay an amount of Rs. 7 lakhs to the informant, this is being disputed by the learned counsel for the informant on the ground that the total dues is Rs. 15,60,000/- in terms of the agreement and also the cost which would be incurred in getting the truck repaired.

The Court presently is not exercising a jurisdiction where this kind of dispute can be adjudicated, since the learned counsel for the petitioner has agreed to pay an amount of Rs. 7 lakhs within a time-frame as such the Court is inclined to grant bail to the petitioner with liberty to the informant to recover the rest of the amount, if any, in accordance with law.



Considering the fact that the petitioner is in custody since 09.03.2021, charge-sheet has been submitted in the case, petitioner is a person with clean antecedent and the petitioner has agreed to pay a sum of Rs. 7 lakhs within a period of 3 months from today to the informant in his SBI account, as mentioned in the agreement, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Shri Sumeet Kumar Singh, learned J.M. 1st Class, Gaya in connection with Tikari P.S. Case No. 583 of 2020.

Learned counsel for the informant, at this stage, submits that in the event if the payment is not made by the petitioner, then he will become remediless.

There is nothing in law which does not have a remedy and after agreeing to pay the amount as submitted, if the petitioner breaches the condition, the consequences will automatically follow.

(Satyavrat Verma, J)

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