

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47296 of 2021

Arising Out of PS. Case No.-68 Year-2016 Thana- MUSRIGHRARI District- Samastipur

SANJAY KUMAR SINGH Son of Arun Mahto Resident of Village -
Barbatta, P.s.- Musrigharari, Distt.- Samastipur, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amit Srivastava, Sr. Advocate
	:	Mr. Syed Asfar Alam, Adv.
For the Opposite Party/s	:	Mr. Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-03-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State through video conferencing.

The petitioner seeks bail in connection with
Musrigharari P.S. Case No. 68 of 2016 registered for the offence
under Sections 406, 420, 467, 468 and 471 of the Indian Penal
Code and Section 138 of the N.I. Act.

According to the prosecution, the informant had
entered into an agreement for lease of a Flor Mill with the
petitioner for a period of seven years. It is alleged that after
execution of the agreement for lease, the informant was informed
about a Loan of Rs. 4,50,000/- on the Mill through the Union
Bank. It is further alleged that the petitioner is alleged to have
not provided the documents related to the Trademark even after
the lapse of five months from the date of agreement for that



reason, the informant had to pay another eight lakh rupees for obtaining the Electricity Meter.

It is further stated that the condition of the Mill was very bad and the informant had to spend a total of Rs. 25,50,000/- including the amount paid for the Electric Meter for making it operational. Another Rs. 2,50,000/- was said to be spent on arraigning staff for the Mill. It is further said that altogether Rs. 28,00,000/- was spent by the informant and it was then decided that the informant was ready to leave the Mill if the petitioner pays him the total money spent by the informant on the Mil. Further, it is said that the petitioner has agreed to pay back the said amount and sent him a cheque of Rs. 40,000/- vide Cheque No. 620204 dated 23.12.2015, which is alleged said to be dishonored for want of fund.

From perusal of the order sheet, it appears that notices have been issued to O.P. No.2 by both process vide order dated 15.12.2021 and according to the office note dated 01.02.2022, notices are said to have been served to father of O.P. No.2, although jointness has not been stated.

Learned senior counsel at the very outset submits that a supplementary affidavit has been filed on behalf of the petitioner with regard to jointness of the O.P. No.2 with his father, who is said to have received the notice issued by this Court.

Though the notices issued to O.P. No.2 have deemed to



be validly served upon him as the status of jointness has been clarified by the supplementary affidavit filed by the petitioner, but no one has chosen to appear on behalf of the O.P. No. 2.

Learned senior counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. He submits that the entire prosecution is out and out a case of civil dispute as according to the agreement itself, it is very much apparent that any dispute between the parties shall be agitated in the Arbitration proceeding. He further submits the petitioner has not committed any offence which attracts complicity of criminal proceeding against the petitioner. Hence, the petitioner, who is rotting in judicial custody since 08.05.2021., may be enlarge on bail.

Learned A.P.P. for the State has fairly submitted that the case is purely a civil dispute and he also submits that the petitioner bears the clean antecedent.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-4th, Samastipur in connection with Musrigharai P.S. Case No. 68 of 2016 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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