

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43993 of 2022

Arising Out of PS. Case No.-288 Year-2022 Thana- BUXAR District- Buxar

MUKESH KUMAR @ CHHOTAN RAM @ CHHOTAK RAM Son of Late
Kailash Prasad Resident of village- Akrora Nai Bazar, Ward no. 5, p.S- Buxar
(Town), Dist- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunita Kumari Wife of Ajit Kumar At present Teacher in Madhya Vidyalaya.
Kritpura, Resident of village- Chilbilli, P.s- Etati, Dist- Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.K.K. Jha, Sr. Adv. Mr. Amish Kumar
For the Opposite Party/s	:	Mr.Aditya Narayan Singh.1
For the State	:	Mr. A.N. Singh, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 21-10-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the office within one

month.

Heard the learned counsel for the petitioner as well as
the learned counsel for the informant/opposite party no. 2
through video conferencing.

At the request of both the parties, the matter was fixed
for today for hearing through virtual mode.

As per prosecution case, the informant Sunita Kumari
is a Teacher. She had taken loan of Rs. 9,32,000/- from the
petitioner for study of her children. She has mentioned in her



written report that she returned Rs. 5,00,000/- cash and the rest amount was being paid in monthly installments. Meanwhile, she executed a sale deed in favour of Sumitra Devi at the instance of the petitioner. As there was a bank loan on that house, Rs.22,76,000/- were transferred in the account of co-accused Bipin Kishore and the accused persons committed cheating on the complainant.

The learned Additional Sessions Judge-IV, Buxar granted regular bail to the petitioner, on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each. The learned Additional Sessions Judge has also mentioned in his order that the petitioner shall have to make a payment of Rs. 10,00,000/- to the informant.

The learned counsel for the petitioner has submitted that due to such kind of stringent condition, the petitioner is languishing in jail, as he is unable to fulfill the condition of payment of Rs. 10,00,000/-.

The learned counsel for the informant/opposite party no. 2 has submitted that one of the accused persons has deposited the amount, but the present petitioner could not deposit the amount despite the specific order of the learned Additional Sessions Judge.



It has been settled principle that there should not be condition, which amounts to denial of the bail. The petitioner despite the fact that he has been granted bail, is languishing in custody due to such stringent condition. As such, this condition is struck off and the petitioner is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned court below.

With these observations/directions, this petition is disposed of.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

Nirmal/Mahesh

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