

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55052 of 2021**

Arising Out of PS. Case No.-255 Year-2014 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Mritunjay Bikram Shah, S/o Sanjay Vikram Shah, Resident of Village-
Mudila Nepali Tola, P.S.- Ramnagar, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s	:	Mr. Manoj Kumar, APP
For the Informant	:	Vijay Kumar Singh No.1, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 19-09-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Bimlesh Kumar Pandey, learned counsel
for the petitioner, Mr. Vijay Kumar Singh No.1, learned counsel
for the informant and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Tr. No. 3975 of 2021, arising out of Complaint
Case No. C-255 of 2014, registered for the offences punishable
under Sections 406, 420, 465 of the Indian Penal Code.

The prosecution case is based on a complaint case
alleging therein that earlier the accused persons, including the
petitioner, were entrusted Rs.3,31,900/- in various installments.



It is alleged that on the date of occurrence, the accused persons, including the petitioner, came to the house of the complainant and requested that they wanted to sell 4 katha of land and for that they are in search of customers and they also assured to set off the aforesaid amount from the sale price of the land. On the assurance given by the petitioner and other accused persons, a document with regard to aforesaid outstanding due a deed of Rs.3,31,900/- was prepared on which accused Trivikram Sah became a witness and on the same day a power of attorney was prepared in faovur of Pradeep Soni. However, the said power of attorney was cancelled on 27.02.2012 itself and fresh power of attorney was executed in faovur of the complainant. It is also alleged that in the meantime, Rs.4,70,000/- was again taken from the complainant, however, the complainant came to know that the said land was executed on 22.04.2013 in favour of somebody else and the petitioner and others denied to return the complainant's amount.

Learned counsel appearing on behalf of the petitioner submits that the aforesaid power of attorney, being deed no. 125 dated 27.02.2012 was subsequently cancelled vide deed no. 175 dated 27.03.2012 on the ground that the petitioner is able to maintain his property and he does not require another power of



attorney, but it appears that on the same day another power of attorney being deed no. 176 dated 27.03.2012 was executed in favour of the complainant, which smacks malafide at the ends of the complaint. He next submits that when the initial power of attorney bearing deed no. 125 was cancelled, then there was no occasion for the parties to continue with the so-called amount and as such the claim of the complainant regarding Rs.3,31,900/- against the power of attorney was claimed to have been executed becomes false. He next submits that the power of attorney, being deed no. 176 also does not disclose any amount and, as such, the claim of complainant regarding Rs.4,70,000/- is also false. He next submits that earlier the petitioner, apprehending his arrest, had approached this Court in Cr. Misc. No. 5740 of 2019 wherein the provisional bail was granted on the assurance given by the petitioner that the petitioner and his brother would deposit Rs.6,00,000/-, failing which the order will be treated to have been withdrawn. However, he fairly submits that he has paid Rs.2,00,000/-, but, later on, on account of Covid-19 pandemic and other financial constraint he could not pay the further amount, in question, resulting into his arrest and now the petitioner is in custody since 13.01.2021.

On the other hand learned counsel for the appellant



vehemently opposes the bail application and submits that the power of attorney dated 27.02.2022 clearly depicts that Rs.3,31,900/- was duly received by the petitioner and his brother. He next submits that the fraudulent act of the petitioner was right from the very inception as on his assurance, the complainant had regularly paid total Rs.8,01,900/- and he himself admitted this fact before the learned coordinate Bench of this Court that he is ready to pay Rs.6,00,000/-, but he did not even honour the order of this Court. He next submits that so far the antecedent of the petitioner is concerned, he is found involved in two other cases, however, in para 3 of the petition he only stated with respect to only one case, but he is not stated with regard to another complaint case.

In response to the aforesaid submission, learned counsel for the petitioner submits that with regard to complaint case, the petitioner has not received any summon as yet and as such he is not even aware about the pendency of the complaint case.

Regard being had to the submissions made on behalf of the parties and considering the nature of the offence, which predominantly shows of a financial dispute, having civil nature, apart from the period of incarceration of the petitioner, let the



petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-Ist, Bagaha, West Champaran in connection with Tr. No. 3975 of 2021, arising out of Complaint Case No. C-255 of 2014, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in



terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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