

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.62532 of 2021**

Arising Out of PS. Case No.-349 Year-2016 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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Rabindra Rai @ Rabindra Ray @ Ravindra Ray, Son of Subhash Rai, R/O
Village- Karauti Bazar, P.S.- Udakishunganj, District- Madhepura

... .. Petitioner

Versus

1. The State of Bihar
2. Shambhu Nath Thakur, Son of Late Shiv Nandan Thakur, R/O Village-
Laskari, P.S.- Udakishunganj, District- Madhepura

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Opposite Party/s : Mr.Parmeshwar Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-01-2022 Learned counsel for the petitioner undertakes to

remove the defects as pointed out by the Stamp Reporter within

four weeks after start of normal functioning of this Court.

Heard learned counsel for the petitioner and Mr.

Parmeshwar Mehta, learned APP for the State.

This the second attempt of the petitioner to obtain bail

in connection with Complaint Case No. 349 of 2016 registered

for the offences punishable under Section 406 of the Indian

Penal Code. The petitioner is in custody since 25.06.2020.

Learned counsel for the petitioner submits that earlier

the prayer for bail of the petitioner was rejected by this Court

after noticing that he has surrendered after a long time and came



into custody only with effect from 25.06.2020. It is his submission that this is a complaint case and cognizance has been taken under Section 406 of the Indian Penal Code only. The complaint case has been filed by PACS Chairman only after an F.I.R. has been lodged against him by the Cooperative Extension Officer alleging that he had misappropriated the government money. The said PACS Chairman has been granted privilege of pre-arrest bail vide Cr. Misc. No. 52965 of 2016.

Learned counsel submits that in this case the trial has yet not begun and since it is a complaint case, the case is still fixed for evidence before charge. The maximum punishment prescribed under Section 406 of the Indian Penal Code is three years whereas the petitioner has already stayed for more than one and half year in custody.

Mr. Parmeshwar Mehta, learned A.P.P. for the State does not dispute the contention of learned counsel for the petitioner that in this case cognizance has been taken only under Section 406 of the Indian Penal Code and the maximum punishment prescribed thereunder is three years whereas the petitioner has remained in custody for more than one and half year.

This Court had called for a report from the learned



court below which has been received vide letter no. 63 dated 06.12.2021. As per this report also the case is still pending for evidence before charge. Meaning thereby the charge has yet not been framed and the evidence of the witnesses are required to be taken for the purpose of framing of charge in a complaint case. The petitioner is admittedly in custody since 25.06.2020 and as per the contentions noted hereinabove, the maximum punishment prescribed under Section 406 of the Indian Penal Code is three years, therefore, considering the period of custody already undergone at this stage as an under trial prisoner and no likelihood of the commencement of trial in near future, this Court directs release of the petitioner above named on bail on furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1, Udakishanganj, Madhepura in connection with Complaint Case No. 349 of 2016, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

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.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

