

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67725 of 2021

Arising Out of PS. Case No.-355 Year-2020 Thana- KHAJANCHI HAT District- Purnia

Yogesh Fransis Palande Son Of Fransis Palande R/O Chitali Road 15 Chari,
A/P Rahta Taal Rahta, Ahmad Nagar (MAHARASHTRA), Pin - 423107.
Establishment Address - Raireel Farming 05 Vismaaymaal, Nibm Road,
Nibm, Pune, Pin - 411048

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Yogesh Chandra Verma, Sr. Advocate
For the Opposite Party/s	:	Mr.Md. Fahimuddin, APP
For the Informant	:	Mr.Gajendra Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 10-05-2022 Heard learned senior counsel for the petitioner,

learned counsel for the informant and learned A.P.P. for the

State.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 406, 420, 384 and 386 of the
Indian Penal Code.

Learned senior counsel for the petitioner submits that
the petitioner is in custody since 16.07.2021 and charge-sheet
has been submitted in the case.

Learned senior counsel further submits that in the bail
application at paragraph '3' though it is pleaded that petitioner
has following cases but perhaps it appears that in haste, the bail
application was filed without stating the criminal antecedents of



the petitioner. It is further submitted that a supplementary affidavit dated 25.04.2022 was filed on behalf of the petitioner in which four cases against him were disclosed. Learned senior counsel further submits that after filing of the supplementary affidavit, the learned counsel for the informant brought to the notice of the Court that there are cases pending against the petitioner which still has not been disclosed by way of supplementary affidavit, thus the learned counsel for the informant provided the case numbers of the criminal cases pending against the petitioner on which a second supplementary affidavit dated 09.05.2022 was filed wherein 12 criminal cases against the petitioner were brought on record. Learned senior counsel thus submits that as on date there are 16 criminal antecedents of the petitioner. It is further submitted that petitioner is in custody since 16.07.2021 and the cases which have been disclosed by the learned counsel for the informant ranges from 2019 till 2022 and as such the cases which were filed in between 2021 and 2022 the petitioner was completely unaware of the same and as such he has not been able to provide the details of the case i.e. the sections under which the F.I.R. was instituted.

Learned counsel for the informant also does not



dispute what has been brought by the learned senior counsel for the petitioner with regard to his antecedents by way of affidavits, as aforesaid.

Learned senior counsel for the petitioner further submits that the informant alleges that he sold maize worth Rs. more than five crores to the petitioner and the petitioner paid about 3 crores and odd and thereafter stopped the payment, further the informant noticed the petitioner to pay the due amount of Rs. 2,31,88,760/- but the petitioner did not pay the amount rather threatened to kill him.

Learned senior counsel for the petitioner submits that from perusal of the allegation as alleged in the FIR it would manifest that whatever happened, happened between two contracting parties in which one sold the maize and other purchased in lieu of money, now the amount is being disputed i.e., whether the maize was worth Rs. 5 crores or it was only worth Rs. 3 crores. It is thus submitted that *prime-facie* from the allegations as alleged it would manifest that the dispute in question is purely a civil dispute which has been given a colour of a criminal case. Learned senior counsel submits that it absolutely does not stand to reason that if the dispute was civil then how come a criminal case came to be instituted and even if



the criminal case has been instituted then the ultimate outcome of the case would be either conviction or acquittal of the accused, in the event of acquittal how his period of incarceration would be compensated and if the petitioner stands convicted, he will serve the sentence. It is further submitted that even for the sake of argument, if it is presumed what the informant alleges is true then the remedy of the informant to recover the amount lies somewhere else and not through a criminal proceeding. It is further submitted that merely keeping the petitioner behind the bars to pressurise him to pay the due amount, which is yet to be adjudicated, cannot be countenanced.

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for bail of the petitioner and the learned counsel for the informant submits that petitioner is a habitual offender and if he is released on bail, he may indulge in such nefarious activities and again may dupe genuine suppliers of maize or other articles but the learned counsel for the informant is not able to meet the submissions of the learned senior counsel for the petitioner that in the event, if the petitioner is acquitted then how his period of incarceration would be compensated and if the petitioner is convicted, he will serve the sentence and also that if there is a dispute, it is a



dispute relating to supply of maize in pursuance of an agreement either oral or written and the remedy for recovering the same does not lie through criminal proceeding.

Considering the fact that the petitioner is in custody since 16.07.2021, charge-sheet has been submitted in the case and taking into consideration the submissions advanced by the learned senior counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Khajanchi Hat P.S. Case No. 355 of 2020 with a condition that one of the bailors of the petitioner shall be his wife, Surekha Yogesh Palande who will submit her Aadhar card before the learned court below.

Further, if the learned court below comes to a conclusion that after release, the petitioner is trying to delay the trial in any manner, the court below shall forthwith cancel his bail bonds after recording reasons.

(Satyavrat Verma, J)

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