

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38872 of 2023

Arising Out of PS. Case No.-489 Year-2020 Thana- VAISHALI District- Vaishali

Samarjeet Kumar @ Samarjeet Singh @ Samar Kumar @ Samar Singh @ S.
Kumar Son Of Sodhan Singh R/O- Yusufpur Chhoti Madai Ps- Town Hazipur
Dist- Vaishali Petitioner

Versus

1. The State of Bihar and
2. Ramesh Prasad Shah, s/o Late Ram Das Shah, Virat nagar, ward no.6,
Police Station Nagar Thana, Vaishali at Hajipur ... Opposite Party

Appearance :

For the Petitioner	:	Mr.Surya Swetabh, Advocate
For the State	:	Mr.Ahmad Ali, Addl Public Prosecutor
For opposite party no.2	:	Mr. MC Gandhi, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 21-09-2023 Heard learned counsel for the petitioner, the State and
opposite party no.2.

2. Petitioner apprehends arrest in a case registered for
the offence punishable under sections 406/420 of the Indian
Penal Code and section 138 of the NI Act.

3. As per the prosecution case, in the name of
installing GPS system and its dealership as well as mobile
recharge dealership, petitioner defalcated Rs. 8.20 lacs of
informant.

4. Learned counsel appearing for the petitioner denies
the allegation and submits that from perusal of the FIR it is clear
that the dispute is purely of commercial transaction between the
parties. Petitioner has already returned Rs. 5 lacs to opposite
party no.2 and rest amount is in dispute. Mere breach of
agreement does not give rise to a criminal prosecution for
cheating, unless fraudulent and dishonest intention is shown at
the beginning of the transaction. Opposite party no.2 has got
other remedy available in law.

5. Learned counsel for the State as well as the



opposite party no.2 oppose the prayer for bail and submits that petitioner has got one more criminal antecedent.

6. Considering the fact that the dispute in question, is in nature of civil dispute, prayer for bail of the petitioner is allowed. In the event of arrest/surrender within six weeks from today, let the petitioner, mentioned above, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Vaishali at Hajipur in Town Police Station Case No. 489 of 2020, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

Shashi

U		T	
---	--	---	--

