

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45936 of 2023

Arising Out of PS. Case No.-867 Year-2022 Thana- SHASTRINAGAR District- Patna

Gauri Shankar Jha, Son Of Deva Kant Jha, Resident Of Village-House No 23,
Kautilya Marg A.G Colony, P.S-Shastri Nagar, Distt- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Nath Vajpeyee, Son Of Ramdhar Sharma, Vajpeyee Resident Of Village-
Baghmari, Ps- Katoriya, Distt- Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar, Advocate Mr. Raj Kumar, Advocate
For the State	:	Mr. Raj Ballabh Singh, APP
For the Informant	:	Mr. Basant Kumar Singh, Advocate Mr. Vishesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 04-08-2023 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

2. In the present case, the petitioner is apprehending his arrest in connection with Shashtri Nagar P.S. Case No. 867 of 2022, registered for the alleged offences under Sections 406, 420 and 506/34 of the Indian Penal Code.

3. As per prosecution case, the petitioner asked for loan of Rs. 11,00,000/- from the informant and the informant gave him Rs. 5,00,000/-. Later on the petitioner refused to pay back the loan amount of Rs. 5,00,000/- though he gave a cheque of Rs. 3,48,000/-. The informant has alleged that the petitioner committed breach of trust with him and wanted to grab the money.



4. The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. The informant has wrongly stated that the petitioner gave a cheque of Rs. 3,48,000/- under social pressure but the said cheque was snatched by the informant and his associates at gun point. For this reason the petitioner stopped the payment and gave a written report to the concerned police station but the police did not register the FIR and thereafter the petitioner lodged a complaint case bearing Complaint Case No. 1520 (C) of 2022 on 04.02.2022 against the informant and others. The informant has also filed a compliant case on 13.04.2022 against the petitioner vide Complaint Case No. 4475 (C) of 2022 and the petitioner was granted bail by the learned Judicial Magistrate. But this fact has not been mentioned by the informant in his case. When the petitioner got bail in the complaint case lodged by the informant, the informant lodged the instant case by hiding the said fact. Learned counsel further submits that prior to filing of the present F.I.R., the petitioner entered into an agreement with a land owner, one Chandra Mohan Rai for sale of land through one Vikky Kumar and rate for purchase of land was fixed as Rs. 7,75,000/- per *katha* and advance money of Rs. 7,06,000/- was paid to Vikky Kumar. After some time informant and his friend negotiated to purchase the



same part of the land. When the petitioner came to know about selling of the same land to another person he contacted the owner of the property and requested him to return his advance money. The informant was present there and promised to return the amount of Rs. 7,06,000/- to the petitioner and as the same was not paid, the petitioner filed Complaint Case No. 112 (C) of 2022 on 04.01.2022 against the informant and others. When the informant came to know about the case filed by the petitioner, he started putting pressure on the petitioner to withdraw the case and started threatening him and took the cheque of Rs. 3.48,000/- at gun point which was earlier paid by him in several installments against return of the advance money of the petitioner given to the landlord. Moreover, from the consideration of the aforesaid facts no case under Sections 406, 420 and 506/34 of IPC is made out against the petitioner.

5. Learned APP as well as learned counsel for the informant vehemently oppose the prayer for anticipatory bail made on behalf of the petitioner. Learned counsel for the informant submits that the petitioner lodged the complaint case in order to save his skin but no answer to the question as to why the loan was extended despite previous dispute between the parties.

6. Having regard to the facts and circumstances and



submissions made on behalf of the parties and considering the strong possibility of false implication, let the petitioner, above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-9th, Patna/court concerned, in connection with Shashtri Nagar P.S. Case No. 867 of 2022, subject to the conditions mentioned in Section 438(2) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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