

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45719 of 2023

Arising Out of PS. Case No.-113 Year-2023 Thana- PIPRA District- East Champaran

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Santosh Kumar, aged about 33 years (M), Son of Anandi Sah, Resident of Village- Bherkhia, Tikuliya, P.S.- Pipra, Distt- East Champaran, Motihari.

... .. Petitioner

Versus

1. The State of Bihar.
2. Sonu Kumar Jaiswal, S/O Dina Nath Prasad Jaiswal, R/O Village-Pipra, P.S. Pipra, District-East Champaran.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sharda Nand Mishra, Advocate
For the O.P. No. 2	:	Mr. Rajesh Kumar, Advocate
For the Opposite Party	:	Mr. Ajit Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 19-12-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Pipra P.S. Case No. 113 of 2023 dated 10.04.2023 registered for the offence punishable under Sections 341, 323, 506, 406 and 420 of the I.P.C.

4. As per the prosecution case, the petitioner and



the informant are well acquainted to each other and there is good familiarity and business relation between them. It is further alleged that the petitioner had taken Rs. 7,00,000/- from the informant on assurance that he would return the said amount till 05.06.2022 but he did not return. The petitioner requested further time, hence, an agreement was made between them in which the petitioner agreed/assured that he would return the entire amount till 10.07.2022, otherwise, he would get a land of Khata No. 111, Khesra No. 266 executed. When the petitioner failed to pay the said amount, the informant went to his house, where the petitioner started abusing the informant and threatened that he would not pay the amount. He had also lodged Pipra P.S. Case No. 199 of 2022 against the informant and others. The informant sent legal notice to the petitioner but neither the petitioner replied to the legal notice nor returned the said amount to the informant.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the petitioner took a loan Rs. 4,00,000/- from the informant on interest



and the said amount comes to Rs. 7,00,000/- with interest. He had executed an agreement on 25.06.2022. The informant called the petitioner and brutally assaulted him for which he had lodged Pipra P.S. Case No. 199 of 2022 against the informant and to save his skin the informant has filed the present case. Learned counsel for the petitioner placed reliance on the judgment in the case of ***Bimla Tiwari Vs. State of Bihar and others (Special Leave Petition (CRL.) Nos. 834-835 of 2023)*** at para 10, the Hon'ble Apex Court has held that "we would reiterate that the process of criminal law cannot be utilized for arm-twisting and money recovery, particularly while opposing the prayer for bail." The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand)



with two sureties of the like amount each to the satisfaction of learned court concerned, East Champaran, Motihari, in connection with Pipra P.S. Case No. 113 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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