

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47889 of 2023

Arising Out of PS. Case No.-402 Year-2022 Thana- KHAIRA District- Jamui

Bhola Yadav @ Bhola Kumar Yadav, Son of Indradeo Yadav, Resident of
Village- Gopalpur, P.S- Khaira, District Jamui

... .. Petitioner

Versus

1. The State of Bihar
2. Kajal Kumari, Wife of Anand Shekhar, Resident of Village- Bhagalpur Barari, P.S- Bhagalpur Barari, District- Bhagalpur.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Senior Advocate Mr. Pramod Kumar, Advocate
For the State	:	Mr. Choubey Jawahar, APP
For the O.P. No. 2	:	Mr. Manindra Kishore Singh, Advocate Mr. Siyaram Pandey, Advocate Mr. Santosh Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-12-2023 Heard Mr. N.K. Agrawal, learned Senior Counsel assisted by Mr. Pramod Kumar, learned counsel for the petitioner, Mr. Choubey Jawahar, learned APP for the State and Mr. Manindra Kishore Singh, learned counsel for the opposite party no. 2.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Khaira P.S. Case No. 402 of 2022 registered for the offences punishable under Sections 342, 323, 406, 420 of the Indian Penal Code. He has two criminal antecedents.

3. As per the prosecution story, the informant has taken a shop on lease for twenty years in the marketing complex

of one Indradeo Yadav and started paddy business in partnership with this petitioner. It is alleged that in connection with purchase of paddy from the farmers, the informant had given Rs.24,00,000/- to this petitioner but when this petitioner did not purchase paddy, the informant asked him to return money. Thereafter, co-accused Indradeo Yadav, Bhola Yadav (this petitioner) and wife of Bhola Yadav assaulted the informant and her husband.

4. Learned senior counsel for the petitioner submits that the allegation against the petitioner is general and omnibus and the stand of the petitioner is that he has not taken any money from the informant.

5. It is further submitted that it is difficult to believe that there will be a cash transaction of Rs.24,00,000/- between the petitioner and the opposite party no. 2.

6. Learned counsel for the opposite party no. 2 has opposed this application. Learned counsel submits that the petitioner has cheated the opposite party no. 2 by inducing her to part with a sum of Rs.24,00,000/- in the name of paddy business and thereafter did not return the amount.

7. Learned counsel submits that it is not correct to say that the entire amount has been paid in cash. In course of

investigation, the investigating agency has collected the ledger of the bank account of the father-in-law of the opposite party no. 2 showing that on several occasions money has been transferred from the account of her father-in-law to the petitioner.

8. It is further submitted that the investigating agency has further found that the petitioner had executed acknowledgment on stamp papers in which he has accepted to have taken the money.

9. Learned APP for the State has after going through the case diary supported the opposite party no. 2. Learned APP submits that from the materials which have been collected in course of investigation, it may be noticed that this petitioner first allured the opposite party no. 2 to believe him and part with the money and thereafter he fled away with the amount. Reference has been made to the acknowledgment executed by the petitioner on the stamp paper and the bank account details which are enclosed with the case diary. It is his submission that in this case it transpires from the investigation that right from beginning the intention of the petitioner was to dupe the opposite party no. 2.

10. Having regard to the facts and circumstances of the case, the materials placed before this Court in form of case

diary and the enclosures in form of bank ledger and the stamp paper acknowledgment, this Court is of the considered opinion that once the allegation of cheating the opposite party no. 2 to the extent of Rs.24,00,000/- has been found true in course of investigation, the petitioner who has two criminal antecedents also and he is not on bail in those two cases, does not deserve privilege of anticipatory bail in this case.

11. Prayer is refused.

12. In case, the petitioner surrenders and prays for regular bail within a period of four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudiced by the order of this Court.

13. This application stands dismissed.

14. The case diary be sent back.

(Rajeev Ranjan Prasad, J)

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