

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49444 of 2023

Arising Out of PS. Case No.-769 Year-2015 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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Digvijay Kumar @ Digvijay Sharma @ Chunchun Sharma S/O Pashuram
Ram R/O Village- Berthu, Ps. Makhdumpur, Dist. Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar Bihar
2. Chandrabhushan Kashyap @ Chandra Bhushan Sharma S/O Late
Harinandan Sharma R/O Village And Post- Ner, Ps. Makhdumpur, Dist.
Jehanabad

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Sharma, Advocate
For the Informant	:	Mr. Ram Uday Prasad Singh, Advocate
		Mr. Ghanshaym Prasad. Advocate
For the Opposite Party/s :		Mr. Umanath Mishra, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 29-11-2023 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 and learned

counsel for the complainant as well as learned Additional Public

Prosecutor for the State.

3. The petitioner is apprehending his arrest in a case in

connection with Complaint Case No. 769 of 2015 dated

27.08.2015 registered for the offence/s punishable u/ss 406 and

420 of the Indian Penal Code but the cognizance has been taken



under section 420 of th IPC.

4. As per the prosecution case, the petitioner and the co-accused persons are alleged to have duped more than Rs. 25,00,000/- in lieu of execution of a piece of land but they did not sell the land and on several reminders, the accused neither executed the said land nor returned the complainant's money.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Learned counsel has further submitted that the petitioner along with the complainant were running a joint business in partnership and the members were signatories of the joint business and they used to receive money either by cheque or in cash according to their requirement. It is further submitted that it is a case of civil dispute. 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 no criminal antecedent as stated at para 3 of the bail petition.



6. Learned counsel for the complainant as well as learned A.P.P. for the State has vehemently opposed the anticipatory bail petition 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 bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Jehanabad in connection with Complaint Case No. 769 of 2015, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition/s:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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