

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 49472 of 2022

Arising Out of PS. Case No.-139 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

MD. SAHANAWAZ ALAM Son of Md. Zarif Alam Resident of Marufganj,
Suraj Market, P.S.- Malsalami, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rana Vikram Singh
For the Opposite Party/s : Mr.Murli Dhar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

9 17-03-2023 Heard learned counsel for the petitioner and the
State.

Petitioner apprehends arrest in a case registered for the
offence punishable under Sections 420, 406, 504 and 34 of the
IPC.

The prosecution story is based on the written
complaint bearing Complaint Case (P) No. 139 of 2022 dated
03.02.2022 of Complainant Sahil Kumar who interalia alleged
as follows:-

i) The accused person, namely, Ankit Kumar was a
broker for accused Mr. Shanawaj Alam who used to inform the
other business men about the availability of the goods.

ii) It is further alleged by the complainant that through
the accused Ankit Kumar, the complainant did some sale and
purchase of black-peeper with the accused Shanawaj in the
month of August and in this order the complainant was informed
by the petitioner that on 21.09.2021 around 350 bags of black
peeper would be available in the stock of Mr. Shahnawaj Alam.



iii) The complainant further alleged that on the instruction of the petitioner the complainant sent Rs. 6 lakhs in the account of the accused Md. Shahnawaj Alam and further sent Rs. 35 lakhs cash through his staff Bijay Kumar and the petitioner.

iv) That on 23.09.2021, the Complainant sent his staff to collect the stock of Black-peeper from the ware house of Md. Shahnawaj Alam, but the accused Shahnawaj refused to send the same to the complainant stating that as the petitioner owed Rs. 41 lakhs to him and the said amount was handed over to him by the petitioner, therefore, he would not be handed over to the complainant.

v) That the Complainant further alleged that on the same day I.e on 23.09.2021 a meeting was held in which the brother of the petitioner namely Akash Kumar (petitioner) paid Rs. 7 lakhs to the complainant and further promised to pay the remaining amount of Rs. 34 lakhs within 20 to 25 days.

vi) The complainant further alleged that all the accused persons including the petitioner have cheated the complainant and misappropriated his Rs. 41 lakhs in the name of sale and purchase of black peeper.

vii) The complainant also alleged that he had filed an Informatory petition and sent a legal notice to the accused persons.

viii) The complainant also alleged that on 20.01.2022 when the complainant demanded back his money from the brother of the petitioner, he was abused and assaulted by him and his gold chain was also snatched by the brother of the petitioner.

It is submitted on behalf of the petitioner that it is out and out a dispute of civil nature relating to settlement of account



between the parties. He next submits that the FIR has been lodged after inordinate delay of four months which also goes to show the ulterior motive behind filing the complaint case. It is next submitted that no chit of paper or document has been annexed showing transaction, delivery or payment of Rs. 34,00,000/- to the petitioner in any manner. Petitioner has not received a single farthing much less the amount of Rs. 34,00,000/- from the complainant or any other person. As a matter of fact, petitioner is whole seller of Golki (Black Peeper) whereas complainant is a retailer who used to procure Golki from various commission agents for selling it to customers.

He next submits that the complainant is full of omission and contradiction and this complaint refers various paragraphs of the complaint particularly para 16,19 and 20 of the complaint. He submits that as per the complaint when the cash amount was given to the petitioner, there was no occasion for the complainant to demand the money from Ankit Kumar and Akash Kumar. It is further submitted that petitioner has already supplied Golki(Black Peeper) worth Rs. 6,00,000/- to the complaint for which he has already received Rs. 6,00,000/- from the complainant in his bank account and as such no offence under section 406 and 420 of IPC is made out.

Learned counsel appearing for the complainant vehemently opposes the prayer for bail and submitted that there is specific and direct allegation against the petitioner, and Rs. 35,00,000 was given to the accused petitioner by his staff in presence of Ankit Kumar. He further submits that in the court below, the petitioner admitted his liability and expressed his willingness to pay the due amount to the complainant and however now, he has changed his stance and cheated not only



the complainant but also the tried to cheat the court by denying all the liabilities. He further submits the petitioner including all the other accused persons is trying to threaten the inquiry witnesses in this case to change their statement before the court. In this regard complainant had field an Informatory Petition bearing Informatory Petition No. 1277/2022.

Considering the nature of dispute and the avarments made in the different paragraphs of the complainant it appears to be a case of civil dispute, arising out of commercial transaction between the parties, in the event of arrest/surrender within six weeks from today, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Ms. Pragya Aishwarya learned JM 1st Class, Patna City subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure with following conditions:

1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present, as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Prabhat Kumar Singh, J)

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