

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58805 of 2023

Arising Out of PS. Case No.-1010 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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Hari Om Mishra, S/o- Surendra Mishra, R/o- DayalpurPs- Dhansoi Po-
Gagaura Dist- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Santu Kumar, son of Late Sawaliya Rai, R/o- Village- Dashratha Near
Indian Oil Gate, Ps- Beur Dist- Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rohit Kumar Tripathi, Advocate
For Opposite Party No.2:		Mr. Jitendra Kumar Roy-1, Advocate
		Mr. U. R. Singh, Advocate
For the State	:	Mr.Uday Chand Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 08-11-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Complaint Case No. 1010/2022, filed on 31.10.2022 under
Sections 406/34 of the Indian Penal Code.

3. As per the prosecution, the complaint case has been
filed against 8 named accused persons including the present
petitioner against whom cognizance has been taken under
Section 406 of the I.P.C. The compliant case has been filed
levelling accusation therein that the petitioner along with other
co-accused person took a loan of Rs.10,00,00/- from the



informant of which Rs.5,00,000/- has been paid through cash, repeated but on demand being made, they refused to return the said amount.

4. Learned counsel for the petitioner submits that the money had been transferred in the bank account of the petitioner, as alleged in the complaint petition, in the month of October, 2020 which is admittedly the Covid period and due to Covid, the loss has been caused to the petitioner and, therefore, he was not in a position to return the amount and in result, the present complaint has been filed. Learned counsel for the petitioner further submits that the petitioner is a responsible person and he is ready to return those amounts which he had received in his bank account from the complainant, in installments. The petitioner is in custody since 28.03.2023.

5. Learned APP for the State opposes the prayer for bail of the petitioner.

6. Learned counsel for the opposite party no.2 under instructions submits that the informant is ready to accept the offer of the petitioner and in that background, the petitioner may be released on provisional bail for one year, but within the said period, he may be directed to make the complete payment of Rs.5,00,000/- (Rupees Five Lacs Only).



7. In view of the undertaking of the petitioner to the effect that he is ready to return Rs.5,00,000/- to the informant in installment and the said offer of the petitioner is acceptable by the informant, let the petitioner above named, be granted provisional bail for 12 months, **subject to payment of Rs.1,50,000/- to the informant before realease**, on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-VIII, Patna, in connection with Complaint Case No.1010/2022, subject to the conditions as laid down U/s 437(3) Cr.P.C.

8 The bail bond of the petitioner shall be accepted by the trial Court on production of substantial proof showing payment of Rs.1,50,000/- (Rupees One Lac Fifty Thousand) in the bank account of the informant. Thereafter, the petitioner shall pay the rest amount in installment. The trial Court shall fix the installment of rest amount and the period for payment of rest amount in installment after consulting the petitioner on release.

9. The provisional bail of the petitioner shall be confirmed by the trial Court on production of substantial proof showing payment of full amount to the informant within one year. In the event, the petitioner fails to make the entire payment



within the stipulated period, the provisional bail granted to him shall be cancelled by the trial court.

(Dr. Anshuman, J)

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