

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58678 of 2023

Arising Out of PS. Case No.-235 Year-2023 Thana- HILSA District- Nalanda

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Avinash Kumar S/O Rajendra Kumar R/O Mohalla- Garbadapar, Hilsa, Post Office And Ps. Hilsa, Dist.- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Pankaj Nigam S/O Late Sitaram Singh R/O Village- And Post Office- Kamta, Ps. Hilsa, Dist.- Nalanda.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Aggarwal, Sr. Advocate
For the Opposite Party/s	:	Mr. Amitesh Kumar, APP
For the O.P. No.2	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 06-12-2023 Heard Mr. N. K. Aggarwal, learned Sr. counsel appearing on behalf of the petitioner, Mr. Arun Kumar Arun, learned counsel appearing on behalf of the Opposite Party No.2 and Mr. Amitesh Kumar, learned APP appearing on behalf of the State.

2. The petitioner seeks anticipatory bail in connection with Hilsa P.S. Case No.235 of 2023 dated 22.04.2023 registered under Sections 384, 379, 504, 120(B) of the Indian Penal Code against the petitioner initiated on the basis of Complaint Case No.154(C) of 2023 filed by Opposite Party No.2.

3. The FIR arises out of Complaint Case No.154(C) of

2023, wherein, inter alia the allegation against the petitioner is that of committing forgery by the petitioner, as the petitioner and the complainant were running partnership firm in the name of Avipriyansh Construction Private Limited, on equal proposition on the basis of fifty percent each. After sometime, the relationship between the parties strained, which led to the filing of the case and counter-case. Allegation in the present Complaint Case is that the petitioner has embezzled money of the company and the petitioner and the complainant have threatened each other. The allegation has been made in the paragraph no.12 of the Complaint Case that the petitioner started threatening the complainant, when the complainant alleged that the petitioner has defalcated a sum of Rs.7,00,000/- of the company and has also stolen a Loader vehicle worth Rs.22 Lakh.

4. Mr. N. K. Aggarwal, learned Sr. Counsel appearing on behalf of the petitioner submitted that the nature of case is being civil in nature arising out of a business partnership transaction for the firm relating to the loss and alleged misappropriation of fund don't entails any criminal charge against the petitioner. The dispute can either be resolved amicably or by filing an appropriate case before the Civil Court

having jurisdiction for desolution of partnership in accordance with the Companies Act.

5. Mr. Arun Kumar Arun, learned counsel has tendered his appearance on behalf of the complainant and has submitted that the petitioner has not only committed forgery with the complainant but also played with the accounts of the company, which led to the non-payment of loan to the Caterpillar Company from where they had purchased vehicle used in construction of road. He admits that petitioner was his partner and certain dispute arose among them with respect to money and that the petitioner has put the company at loss by committing forgery of Rs. 7,00,000/- as alleged in the complaint.

6. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and also submits that the matter is between the parties and it can be resolved amicably or that can be sought by availing appropriate remedy before the competent Civil Court.

7. Considering the nature of allegation made in the Complaint, which has turned into FIR, basically relates to estranged relationship between the complainant and the petitioner due to some dispute arising out of apportionment of

the share and responsibility of the two partners. Considering the fact that nature of case is civil in nature, which can be resolved amicably or by filing an appropriate case before Civil Court having jurisdiction, I am of the opinion that petitioner has, prima facie, made out a case to be released on pre-arrest bail.

8. The petitioner is directed to be released provisionally on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate -Ist, Hilsa, Nalanda in connection with Hilsa P.S. Case No.235 of 2023 dated 22.04.2023, on such terms and conditions as the court below deems it fit and proper.

(Purnendu Singh, J.)

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