

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6460 of 2024

Arising Out of PS. Case No.-490 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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KAPILDEO PRASAD @ KAPILDEV PRASAD Son of Late Ramdev Prasad Chaudhary @ Late Ramdev Prasad Resident of Mohalla-Gosaighat Lane, Police Station-Alamganj, District-Patna. At present resident of Shershah Road, Sakri Gali, Police Station-Alamganj, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. FARHAT KHATOON Wife of Md. Samshad Resident of Mohalla-Training College, Police Station-Sultanganj, Post Office-Mahendru, District-Patna, Pin Code-800006.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Raj Krishna Jha, Advocate
For the Opposite Party/s	:	Mr.Bharat Lal, APP
For the complainant	:	Mr. Neeraj Kumar Sanidh, Advocate
		Mr. Ashwani Raj Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 16-04-2024 Heard learned counsel for the petitioner, the State and the complainant.

2. The petitioner is apprehending arrest in connection with Complaint Case No. 490 of 2022 instituted under Sections 406 and 420 of the Indian Penal Code filed on 20.6.2022 by the complainant, Farhat Khatoon.

3. As per the complaint, the petitioner wanted a loan of Rs. 42,50,000/- as he was in urgent need, was paid by the complainant on 30.8.2019 at the residence of the accused persons. An agreement was also executed on stamp paper with



an assurance to return it by 31.3.2020. Upon the expiry of the date, when demand was made, payment did not come, legal notice followed and although initially reply notice showed that he is inclined to pay Rs. 15,91,000/- in installments and further returned Rs. 1,00,000/-, no payment came. Accordingly, the complaint.

4. Learned counsel for the petitioner on instruction submits that though the amount has been exaggerated by the complainant, since they had long relationship, do not want to join the issue on the said demand, would like to make payment of Rs. 41,50,000/- (as Rs. 1,00,000/- has already been paid) but prayer is that he may be permitted to make payment in installments.

5. Learned counsel appearing for the complainant though submits that they were in good relationship and in good faith made payment, had to suffer for long as the payment was made in the year 2019, he too do not want to further sour relationship and as such if the petitioner is ready to make payment, he has no opposition to the grant of relief, he is asking for.

6. Taking into account the positive steps that the two sides have taken, after some discussions, both sides have agreed



on making payments in the following manner:

- (i) learned counsel for the complainant shall be providing the Bank account details to the learned counsel for the petitioner so that the amount can be transferred directly in the Bank account;
- (ii) at the time of execution of bail bond, the petitioner shall be paying Rs. 10 lakh by a Demand Draft issued by the local State Bank of India in the name of the complainant and the details shall also be part of that draft;
- (iii) thereafter, from the month July, 2024 by every 10th of that month, the petitioner shall be paying Rs. 2,00,000/- to the complainant again by way of Demand Draft, the details which have already been incorporated above;
- (iv) this installment of Rs. 2,00,000/- will continue till September, 2025;
- (v) the last installment of Rs.1,50,000/- shall be paid by 10th of October, 2025;



(vi) in case, the petitioner defaults in making the payment, the complainant shall be free to take recourse for the cancellation of his bail bond.

7. Recording the aforesaid facts, this Court is inclined to extend him the privilege of anticipatory bail.

8. Let the petitioner be released on bail, in the event of his arrest or surrender before the subordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each in connection with Complaint Case No. 490 of 2022 to the satisfaction of learned J.M.-1st Class, Patna City or his successor court subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also the other conditions.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;



(iii) the petitioner shall co-operate in the investigation and make himself available to the police as and when required;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds;

(vi) the petitioner shall fully abide by the details incorporated in paragraph 6 of this order.

(Rajiv Roy, J)

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