

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8788 of 2024

Arising Out of PS. Case No.-51 Year-2022 Thana- BARHIYA District- Lakhisarai

Rajiv Kumar @ Molu, (M) aged about 28 years, S/o Ajay Singh, R/o Vill -
Ramcharan Tola, Ward No. 05, Barahiya, Lakhisarai, Bihar - 811302

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Shanu, Advocate

For the Opposite Party/s : Mr. Binod Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 22-02-2024 Heard Mr. Kumar Shanu, learned counsel appearing
on behalf of the petitioner and Mr. Binod Kumar, learned APP
for the State.

2. The petitioner seeks pre-arrest bail in connection
with Barahiya P.S. Case No. 51 of 2022 dated 24.03.2022
registered for the offence punishable under Sections 406, 420
and 379 of the Indian Penal Code.

3. As per the allegation made in the FIR, the
informant had allegedly sold a truck to the petitioner, who at the
relevant point of time, was his driver. The petitioner has been
alleged to have promised to make payment of the entire
consideration amount in installement.

4. Learned counsel appearing on behalf of the
petitioner submitted that the FIR is frivolous. The informant has



admitted that the petitioner is driver and even assuming that the petitioner did not fulfill to make payment of the entire amount of consideration as alleged by the informant, the same cannot entail criminal prosecution and in this regard, he has relied on a judgment passed by the Apex Court in case of ***Bimla Tiwari vs. the State of Bihar & Ors.*** reported in ***2023 SCC OnLine SC 51*** and refers to paragraphs no. 9, 10 and 11 of the said judgment. Petitioner has clean antecedent. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Considering the nature of allegation made in the FIR, as well as, in absence of any document relating to sale of the vehicle belonging to the informant to the petitioner, who, admittedly, according to the FIR, is his driver, the petitioner cannot be faulted. Petitioner has clean antecedent. I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released 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/- (Rupees Twenty



Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai/ court concerned in connection with Barahiya P.S. Case No. 51 of 2022 dated 24.03.2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

9. Considering the observation made by the Apex Court in case of *Bimla Tiwari (Supra)* in paragraphs no. 9, 10 and 11, the parties, if so desire, may avail appropriate remedy before the Competent Court.

(Purnendu Singh, J)

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