

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17554 of 2024

Arising Out of PS. Case No.-614 Year-2023 Thana- DHANARUA District- Patna

Kanhaiya Prasad Singh, Male, aged about 45 years, S/o Nasib Lal Singh, R/O Village Hariraha, Ward No 10, P.O Hariraha, P.S. Karjain, District Supaul.

... .. Petitioner

Versus

1. The State of Bihar.
2. Mukesh Kumar (Male), S/O Shailendra Kumar, At + P.O. Nadwan, P.S. Dhanarua, District-Patna.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Rama Kant Singh, Advocate
For the O.P. No. 2	:	Mr. Y. C. Verma, Sr. Advocate and Mr. Gajendra Kumar, Advocate
For the State	:	Mr. Chandra Bhushan Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 20-08-2024 Heard learned counsel for the petitioner, learned senior counsel for the opposite party no. 2 and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Dhanarua P.S. Case No. 614 of 2023 dated 27.09.2023 registered for the offences punishable under Sections 419, 420 and 406 of the I.P.C.

3. As per the prosecution case, on 06.05.2022, the co-accused Raju Paswan being the guarantor, the petitioner took friendly loan of Rs. 11,00,000/- (Rupees Eleven Lacs) from the informant for which a deed of agreement on a non-judicial stamp paper for Rs. 1,000/- was made. It is further alleged that



on the said deed of agreement, the co-accused Raju Paswan put his signature and was made a witness and the petitioner also put his signature on the said deed of agreement. The petitioner at the time of taking friendly loan told that his mother was ill and for her treatment he was in need of money. It is further alleged that in the said deed of agreement, the co-accused Raju Paswan and the petitioner told that they would return the said money till 15.01.2023. The informant does not know the petitioner. It is further alleged that both the persons took the money after committing forgery and cheating. Later on, after inquiry, the informant came to know that the mother of the petitioner was not ill rather they took money from the informant after saying false statement.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that there is no any iota of evidence against the petitioner. It is submitted that the allegation of cheating is not against the petitioner rather it is alleged against the co-accused Raju Paswan. Hence, Sections 420 and 406 of the I.P.C. are not attracted against the petitioner. It is further submitted that from perusal of the F.I.R. itself, it appears that the informant does not know the petitioner, so, it is clear that the



petitioner had not taken money from the informant. Learned counsel for the petitioner placed reliance on the judgment in the case of ***Bimla Tiwari Vs. State of Bihar and others (Special Leave Petition (CRL.) Nos. 834-835 of 2023)*** at para 10, the Hon'ble Apex Court has held that "we would reiterate that the process of criminal law cannot be utilized for arm-twisting and money recovery, particularly while opposing the prayer for bail." The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 28.09.2023.

5. Learned A.P.P. for the State and learned senior counsel for the opposite party no. 2 have vehemently opposed the bail petition of the petitioner. Learned senior counsel for the opposite party no. 2 has submitted that the petitioner took friendly loan of Rs. 11,00,000/- from the informant after committing forgery and cheating on the ground of illness of his mother and told that he will return the said money till 15.01.2023 but he did not return the said money till date.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of



the like amount each to the satisfaction of learned J.M. Ist Class, Masaurhi, in connection with Dhanarua P.S. Case No. 614 of 2023 with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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