

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14100 of 2024

Arising Out of PS. Case No.-602 Year-2022 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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Jagjeet Singh Son of Late Dayal Singh Resident of 474A, G.T. Road, Manish
Hugali, P.S.- Hugali, District- Hugali (West Bengal)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Darash Rai Son of Late Jag Narayan Rai Resident of Village - Manpura
, P.O. mahuari, P.S. karghar, Distt.- Rohtas. Present- Takiya ward no.10 , P.S.
Sasaram, Distt. Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Ms. Kanak Verma, Advocate. Mr. Prabhat Kumar, Advocate.
For the Opposite Party/s :		Mr.Uday Pratap Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 14-03-2024 Heard Ms. Kanak Verma, learned counsel along with

Mr. Prabhat Kumar, learned counsel appearing on behalf of the

petitioner and Mr. Uday Pratap Singh, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection

with Complaint Case No. 602 of 2022 registered for the offence

punishable under Sections 406 and 420 of the Indian Penal

Code.

3. As per the allegation made in the F.I.R., pursuant to

the agreement to sell the truck owned by the petitioner by

depositing 48 installments each of Rs.44,000/- by the

complainant, it has been alleged that a sum of Rs.94,000/- has



been paid to the petitioner who is the owner of the truck.

4. Learned counsel appearing on behalf of the petitioner submitted that from perusal of the complaint, it would appear that no written agreement has been brought on record and the allegation as has been made by the complainant against the petitioner, in absence of any written agreement which is a vital evidence in accordance with the Indian Evidence Act, cannot be sustained, though it is admitted that through the legal notice served upon the petitioner, the petitioner for the first time came to learn about such frivolous allegation made against him. Learned counsel informs that the petitioner had hired the complainant as driver to run his truck and he was apprehended by the petitioner while he had engaged the truck in some illegal activities and thereafter, a false case has been lodged by the complainant against the petitioner. Learned counsel further submitted that the claim of the complainant that a sum of Rs.94000/- was paid to the petitioner and is also not substantiated by any legal instrument or bank transaction. On these ground, learned counsel submitted that the petitioner being innocent deserves to be released on pre-arrest bail.

5. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner and submitted that the dispute relates to specific performance of



contract and the petitioner instead of showing his *bonafide* by filing a suit for specific performance of contract has come before this Court for grant of pre-arrest bail.

6. Having considered the rival submissions made on behalf of the parties as well as the fact that the allegations have been made by the complainant with respect to certain agreement entered into between the parties, as claimed by the complainant, but to substantiate the said fact, a copy of the agreement with respect to sale of truck by the petitioner has not been brought on record. In absence of the same, the legal notice which was served upon the petitioner also has no legal sanctity. The oral contract has no evidentiary value, even assuming that there has been an oral contract between the parties, in absence of any evidence with respect to transaction of money between the parties by way of installment each amounting to Rs.44,000/- and the complainant having paid a sum of Rs.94000/- to the petitioner is also not substantiated by any instrument or any bank transaction between the parties. I am of the opinion that the complaint itself is vexatious and the petitioner has, *prima facie*, made out a case to be released on bail.

7. In order to establish a criminal case, it must be shown that the requisite *mens rea* was present from the very beginning. The Apex Court in the case of **Naresh Kumar &**



Anr. Vs. The State of Karnataka & Anr. reported in **2024**
LiveLaw (SC) 228, has observed as follows:

“Firstly, the dispute between the parties is primarily, civil in nature. It is after all a question of how many bicycles the complainant had assembled and the dispute between the parties is only regarding the figure of bicycles and consequently of the amount liable to be paid. This is a civil dispute. The complainant has not been able to establish that the intention to cheat the complainant was there with the appellants right from the beginning. Merely because the appellants admit that only 28,995 bicycles were assembled, but they have admittedly paid an amount of Rs. 62,01,746/- to the complainant, which is of a much higher number of bicycles, would not prove that the intention of the appellants right from the beginning was to cheat.”

8. The complaint lacks the ingredients of Sections 420 and 406 of the Indian Penal Code. 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. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-cum-Sub Judge-VI, Rohtas, Sasaram in connection with Complaint Case No. 602 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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