

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23830 of 2024

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

=====

Ravi Singh Grewal @ Ravi Singh Girewal S/o Jagjeet Singh R/o 83
Amrendra Sarai, Utarpara, P.S. - Hugali, Dist. - Hugali (West Bengal)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Darash Rai S/o Late Jag Narain Rai R/o Vill - Mainpura, P.O. -
Mahuari, P.S. - Kashar, Dist. - Rohtas Present Address Mohalla - Takiya,
Ward No. 10, P.S. - Sasaram, Dist. - Rohtash (Bihar) Mob. No. 7739046489

... .. Opposite Party/s

=====

Appearance :

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

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 26-07-2024 Heard Ms. Kanak Verma along with Mr. Prabhat

Kumar, learned counsels appearing on behalf of the petitioner
and Mr. Manoj Kumar, , 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 for the similar allegation, the father of the petitioner has been released on bail by this Court *vide* order dated 14.03.2024, passed in Cr. Misc. No.14100 of 2024 and the petitioner's case is exactly the same and thus, petitioner seeks to be released on bail on similar terms and conditions.

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

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 and moreover, father of the petitioner for the similar allegation has already been granted anticipatory bail by this Court, 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)

sudhanshu/-

U		T	
---	--	---	--

