

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24029 of 2024

Arising Out of PS. Case No.-8332 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

Amlesh Kumar Son of Madan Singh Resident of Village- Polua
Paigambarpur, Bairiya near at Azad Transport, P.S.- Ahiyapur, Dist.-
Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mona Kumari D/o Late Birendra Chaudhary, R/o - at present Flat No. 304B,
Vaishnavi Apartment, Mahendru, P.S.- Pirbahore, Dist.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shahrukh Shiddiqui, Advocate
For the Opposite Party/s : Mr. Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 31-07-2024 Heard Mr. Shahrukh Shiddiqui, learned counsel
appearing on behalf of the petitioner and Mr. Murli Dhar,
learned APP appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No.8332(C) of 2022 registered under
Sections 494, 406, 420, 467, 468, 471/34 of the Indian Penal
Code.

3. As per the allegation made in the Complaint, for
non-fulfillment of demand of dowry, the petitioner and his
family members ousted the complainant from the matrimonial
house. Further allegation is that the petitioner has also
misappropriated a sum of Rs.13 lakh from the account of the
complainant by using her ATM card.

4. Learned counsel appearing on behalf of the



petitioner submitted that petitioner was in live-in-relationship with the complainant and thereafter, on 07.11.2017, the complainant was married to the petitioner. He further submitted that after a short period, the complainant herself broke the relationship with the petitioner on 06.05.2018. It is submitted that the alleged amount, which has allegedly been misappropriated by the petitioner, relates to period 07.11.2017, the date on which the petitioner and the complainant entered into their matrimonial relationship, till 06.05.2018. Learned counsel further submitted that once the relationship between petitioner and the complainant came to an end on 06.05.2018 and subsequent to the same, the complainant lodged complaint no.1970 of 2018, in which she has not alleged regarding the misuse of her ATM card nor has mentioned the number of the ATM card in her complaint. On these grounds, learned counsel submits that petitioner is innocent and seeks to be released on bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail, however, he submitted that the very nature of allegation made against the petitioner in the complaint arises out of matrimonial dispute between the petitioner and the complainant.



6. Mr. Vijay Kr. Sinha, learned counsel has tendered his appearance on behalf of the complainant and submitted that the complainant was aware of the fact that her money was being swindled and misappropriated by the petitioner but she could come to know about the said fact on 15.02.2022, when she got the details of her Bank statement. The complainant was unaware of the ATM card and the petitioner had taken advantage of the said situation.

7. Considering the rival submissions made on behalf of the parties, as well as, the fact that it is admitted by the complainant that she had earlier filed first complaint, which was just after her break-up of relationship with the petitioner on 06.05.2018 bearing Complaint Case No.1970 of 2018 and it can't be ascertained, as to whether, the ATM card was lost or it was stolen by the petitioner and misused by him and from the allegation, which has been made in the present complaint, in which the petitioner is seeking pre-arrest bail, it can't be inferred, as to whether, at any point of time just after 06.05.2018, when the complainant has lodged, a complaint for the alleged non-fulfillment of dowry has been filed, or the complainant was tortured and was thrown out of the matrimonial house. I am of the opinion that the learned District



Court should call for both the complaints and examine, as to whether, the complainant, at any point of time, had made any allegation in respect of misappropriation of Rs.13 lakh from her ATM card and also examine the allegation made against the petitioner and his family members, whether it constitute any offence, which required criminal prosecution.

8. If the learned District Court finds that the complainant, at no point of time, had made any allegation against the petitioner in respect of misappropriation of Rs.13 lakh from her ATM card, then in that case, the learned District Court is directed to release the petitioner on anticipatory bail, in the event of his arrest or surrender before the learned District Court within a period of eight weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand), in connection with Complaint Case No.8332(C) of 2022 to the satisfaction of learned Sub-Divisional Judicial Magistrate, Patna, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. Accordingly, the present bail application stands disposed of.

(Purnendu Singh, J.)

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