

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27220 of 2024

Arising Out of PS. Case No.-995 Year-2021 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Rama Shankar Prasad son of Late Hajari Prasad Village- Bishunpura Tola
Paterwa Ps- Jagdishpur Dist- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shriram son of Late Mohan Prasad, Village- Bishunpura, P.S.- Jagdishpur
Distt.- West Champaran

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Satyendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 20-05-2024 Heard Ld. counsel for the petitioner and

Ld. APP for the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 995 of 2021 dated 22.09.2021
registered for the offences punishable under Sections 406 and
420 of the Indian Penal Code.

3. As per the allegation in the complaint petition, the
complainant executed a registered mortgage deed in regard to
land in favour of the petitioner. The complainant paid
Rs.10,00,000/- to the petitioner and period of mortgage was
fixed for two years. However, the petitioner sold part of land to
some other person.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that no offence is made out, as per the alleged facts and circumstances, at most, they constitute a dispute of civil nature, because as per the criminal complaint filed by the complainant, the accused-petitioner has mortgaged some land in favour of the complainant for two years and after two years, he did not pay the money and sold the land to someone else. He further submits that before filing the complaint petition, the complainant has already filed money suit in Civil Court which is still pending. He further submits that as per the law regarding mortgage, the land still stands mortgaged in favour of the complainant because it is a settled law that once a mortgage, always a mortgage, unless it is redeemed. As such, the complainant no way suffered if someone has purchased the land. The charge on the land still continues and as far as repayment of mortgage money is concerned, the complainant has remedy to prefer appropriate civil suit. The complainant has given a colour of criminality to the dispute of civil nature.

5. It has also been stated in paragraph no.3 of the bail petition that the petitioner has no criminal antecedent.

6. It is also stated in paragraph no. 2 of the petition



that petitioner has never moved before this Hon'ble Court for grant of Anticipatory Bail or Regular Bail.

7. However, Ld. APP for the State vehemently opposes the prayer of the petitioner for bail.

8. Considering the aforesaid facts and circumstances of the case, this application is allowed, directing the petitioner above named, to be enlarged on bail in the event of his arrest or surrender before Ld. trial court within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Judicial Magistrate-Ist Class, West Champaran at Bettiah/Successor Court, in connection with Complaint Case No. 995 of 2021, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of Ld. trial court that the petitioner has any criminal antecedent, Ld. trial court shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(ii) In case, it is brought to the notice of Ld. trial court that statement regarding previous bail petition is wrong, Ld. trial



court shall cancel the bail bond of the petitioner.

ravishankar/S.Ali

(Jitendra Kumar, J.)

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