

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32070 of 2024

Arising Out of PS. Case No.-86 Year-2022 Thana- EAST COLONY District- Munger

Manish Kumar son of Late Gauri Shankar Prasad Resident of Mohalla -
Bekapur PS- Kotwali Dist- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Indu Bhushan, Advocate
For the State	:	Mr. Ram Sevak Choudhary, A.P.P.
For the Informant	:	Mr. Kumar Kamal Nayan, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

6 30-08-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

2. In the present case, the petitioner seeks bail in connection with East Colony P.S. Case No. 86 of 2022, registered on 24.11.2022 for the offences under Sections 420, 406, 120B, 506/34 of the Indian Penal Code.

3. As per the prosecution case, the petitioner has been running a shop and allegation against the petitioner and other co-accused persons is that they took loan of Rs.1,56,00,000/- (One Crore Fifty Six lakhs) from the informant and his relatives/acquaintances in the name of running the shop in the name of 'Chai Bagan'. Further allegation is that the co-accused mother of the petitioner entered into an agreement to handover



the possession of their house in case the loan was not repaid. Further allegation is that the petitioner and other co-accused persons refused to return the money and threatened the informant with his life and false implication.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. The petitioner has not entered into any agreement with respect to execute any sale deed in lieu of the money given by the informant or any other person. Learned counsel further submits that even if there is an agreement, the informant should have filed a suit for specific performance or suit for recovery of the money and filing of criminal case is unjustified and not proper. From the allegation levelled in the FIR it is apparent that it is a civil dispute which has not been given criminal form. From the facts of the case, no offence either under Section 420 of the IPC or under Section 406 of the IPC is made out against the petitioner as the ingredients of these offences are conspicuous by their absence. Learned counsel further submits that, moreover, counter affidavit has been filed on behalf of the informant showing account transfer of money to the tune of Rs. 20,97,722/- and against the money received by the petitioner, an amount of Rs.8,23,006.50 has been returned by the petitioner.



Learned counsel further submits that claim of the informant of extending loan of Rs. 1,55,50,000/- is not believable as the informant is himself a class III government employee and the story of making such huge cash transaction is not possible. Learned counsel further submits that in fact the informant is a loan shark and is in the business of lending money and wants to grab the house of the petitioner and it is his modes operandi. Earlier the father of the informant used to run a shop and he died during Corona Pandemic in 2021 and taking advantage of his death, the informant claimed that in between 07.08.2018 to 11.04.2022 a loan of Rs. 1,55,50,000/- has been given to the petitioner. Learned counsel further submits that the petitioner is in custody since 01.02.2024 and two co-accused Gita Devi and Gulshan Kumar have been granted anticipatory bail by this Court vide orders dated 16.01.2024 and 22.10.2024 passed in Cr. Misc. Nos. 6835 of 2024 and 20908 of 2024, respectively.

5. Learned A.P.P. appearing for the State as well as learned counsel for the informant vehemently oppose the submissions made on behalf of the petitioner. Learned counsel for the informant submits that the informant as well as his relatives have extended loan to the petitioner as well as other co-accused persons from time to time. Learned counsel for the



informant further submits that apart from the cash transaction with the petitioner and other co-accused, Rs. 24 lakhs was transferred in different account of the petitioner and other co-accused persons on behalf of the informant. Learned counsel further submits that petitioner is accused in altogether 6 cases apart from the present one. At this stage learned counsel for the petitioner submits that all cases have been lodged after institution of the present case by acquaintances of the informant.

6. Having regard to the fact and circumstances and submission made on behalf of the parties and considering the period of custody of the petitioner in the background of the fact that the allegations are mostly for commercial transaction and apparently the subject matter of civil dispute, the petitioner is directed to be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Munger/concerned court, in connection with East Colony P.S. Case No. 86 of 2022, subject to the condition laid down under Section 437(3) of the code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the below, if so required by the learned trial court.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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