

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33002 of 2024

Arising Out of PS. Case No.-809 Year-2023 Thana- MOTIHARI TOWN District- East
Champaran

=====

Ram Swarth Prasad, aged about 54 years, Male, Son of Jagrup Ray, R/O
Village- Mohadipur, P.S.- Chiraiya, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Sunil Kumar No.III, Advocate
For the Opposite Party/s :	Mr.Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 18-09-2024 Heard Mr. Sunil Kumar No.III, learned counsel

appearing on behalf of the petitioner and Mr. Chandra Bhushan

Prasad, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Motihari Town P.S. Case No. 809 of 2023 registered for the
offence(s) punishable under Sections 406 and 420 of the Indian
Penal Code and Section 138 of N.I. Act.

3. As per the allegation made in the FIR, petitioner
had taken a loan of rupees fifteen lacs from the informant and
thereafter he had given a cheque of rupees fifteen lacs to the
informant but the same was dishonoured due to insufficient fund
in his account. The detail of cheque has been referred in the
FIR.



4. Learned counsel appearing on behalf of the petitioner submitted that petitioner has taken a loan of rupees three lacs and in view of that, the informant has forced him to execute an agreement for rupees fifteen lacs for security deposit and not for any other purpose, though the petitioner had tendered a cheque of rupees fifteen lacs by Cheque No.883466 dated 22.11.2023 but due to insufficient fund, the same was dishonoured. Petitioner accepts that in two installments, he has taken a sum of rupees fifteen lacs and to buy peace of mind, he wants to return the same. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Mr. Pankaj Kumar Singh, learned counsel, has tendered his appearance on behalf of the informant and submitted that the petitioner by tendering cheque of rupees fifteen lacs has admitted the allegation made in the FIR that he has received a sum of rupees fifteen lacs from the informant into two instalments, one being a sum of rupees three lacs and other being a sum of rupees twelve lacs and in case the petitioner has returned any amount, as claimed in the bail application, the same can be adjusted, if the informant has received the said amount in his bank account.

6. Learned APP appearing on behalf of the State



vehemently opposed the prayer for grant of pre-arrest bail.

7. Having considered the rival submissions made on behalf of the parties, as well as, the desire of the petitioner that he will negotiate with the informant, **I find that the petitioner may surrender before the learned District Court and seek regular bail by giving details of the money, which he has returned to the informant and also give the remaining amount, out of rupees fifteen lacs, on the same day.** In that case, the District Court must consider the bail application of the petitioner on the same day and pass necessary order on merits, taking into account the law laid down by the Apex Court in the case of *Bimla Tiwari vs. State of Bihar & Ors. passed in SLP (Crl.) Nos. 834-835 of 2023.*

8. The present bail application stands disposed of.

(Purnendu Singh, J)

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