

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35262 of 2024

Arising Out of PS. Case No.-2411 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Sonu Kumar, Son Of Sri S. Khalifa @ Safir Khalifa R/O Village - Krishna Bihar Colony, Phage No. - 2, Near Jai Hanuman Kirana Store, P.S. - Beur Jail, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramod Kishore Jha, Son Of Late Nawal Kishore Jha R/O Village- Chhota Bariyarpur (Near Airport), Motihari, Post- Motihari, P.S.- Chhatauni, Dist- East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Mohan Singh
For the Opposite Party/s : Mr.Md. Ataur Rahman

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-05-2024 1. Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Section 406 of the Indian Penal Code.

3. The learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and has been falsely implicated in the instant case by the complainant. It is next submitted that from perusal of the allegation as alleged in the complaint, it would manifest that complainant himself committed a crime for the reason that he wanted his son to get



admitted in a medical college through backdoor based on donation.

4. The learned counsel for the petitioner submits that petitioner disputes the allegation as alleged in the complaint, but then, submits that the complainant in the complaint alleges that he is an Assistant Teacher in D.A.V. Public School, Motihari and he was well acquainted with the petitioner and the petitioner was local guardian of his son, who was preparing for medical examination at Patna. It is further alleged that the petitioner approached the complainant and made him believe that if Rs.1,25,000/- by way of first instalment is paid, he will ensure admission of his son in a medical college. Accordingly, the complainant gave the said amount through cheque, but when the son of the complainant did not get admission in the medical college, thereafter the complainant approached the petitioner demanding his money back and the petitioner gave a cheque of Rs.1,25,000/- which on presentation for encashment bounced, thereafter, the petitioner transferred an amount of Rs.50,000/- in the bank account of the complainant and assured that rest Rs.75,000/- with interest will also be returned within a week, but the same was not returned, the instant complaint case came to be instituted.



5. The learned counsel for the petitioner submits that petitioner and the complainant are known to each other and the petitioner had taken the said amount by way of loan. It is also submitted that petitioner also returned an amount of Rs.50,000/- and thereafter, also returned another Rs.50,000/- by cash, but thereafter the complainant by way of afterthought instituted the instant case without disclosing that an amount of Rs. One Lac has been returned. It is next submitted that if what has been alleged in the complaint is true, in that event, the complainant should also be prosecuted for the reason that he intended to get admission of his son in a medical college through backdoor by paying bribe which in itself is an offence.

6. Learned A.P.P. also concurs with the submission of the learned counsel appearing on behalf of the petitioner to the extent that the complainant himself admits that he had given a sum of Rs.1,25,000/- to the petitioner for seeking backdoor admission of his son in a medical college which in itself is an offence.

7. Since the dispute appears to be more relating to monetary dues, as such, the complainant ought to have approached the Court of competent civil jurisdiction for recovering his monetary dues, instead of instituting a criminal



case with a view to coerce the petitioner into submission for recovering monetary dues, which the petitioner disputes.

8. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Miss Sunita Kumari, the learned Judicial Magistrate, 1st Class, East Champaran at Motihari in connection with Trial No.1632 of 2023 arising out of Complaint Case No.2411 of 2018, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

9. The application stands allowed.

(Satyavrat Verma, J)

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