

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35161 of 2023

Arising Out of PS. Case No.-151 Year-2020 Thana- TURKAULIYA District- East
Champaran

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Dhanpati Sharma Mainali son of Late Vishnu Prasad Mainali, Resident of
Village- Raja Bazar PS- Motihari Town Dist- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Suresh Prasad S/o- Late Jagarnath Sah R/o Village- Chainpur, P.S.-
Chhauradano, District- East Champaran

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 17-12-2024 Heard learned counsel appearing on behalf of the

petitioner and the learned APP for the State.

2. Petitioner seeks pre-arrest bail in connection with

Turkauliya (Raghunathpur O.P.) P.S.Case No.151 of 2020,

registered for the offences punishable under Sections 420, 406,

467, 468 & 471/34of the Indian Penal Code.

3. In the light of **Bimla Tiwari vs. State of Bihar &
Ors. case [SLP (Crl.) Nos. 834-835 of 2023]**, the petitioner
may seek bail considering the matter to be purely civil in nature
on the very fact that the entire consideration amount has been
paid in cash, however, there is restriction by the Ministry of
Finance, Government of India by making amendment in the



Income Tax Act in the year, 2016 that the consideration amount, in view of the sale of land, can only be made by means of any instrument either online transfer from the Account or by means of cheque or draft or any other instrument.

4. I find that no specific statement has been made in the counter affidavit about the means of transaction, as well as, at the time of registration of the land, the informant had not raised any objection before the Registrar. The Registrar is not authorized under the Registration Act to go into the veracity of the dispute as has been alleged in the FIR. The parties have remedy before the appropriate forum in accordance with law.

5. Considering the admissions made on behalf of O.P.No.2 in respect of his claim that the land, in dispute, is belonging to him, which has been settled by the King of Nepal.

6. In view of the pleadings made in the bail application and the counter affidavit, I find that the parties have remedy before the appropriate civil court for redressal of their grievance.

7. I find no merit in the present bail application in view of the disputed question of fact, as well as, certain certificate, which has been issued in favour of the O.P.no.2.

8. Under the aforesaid facts and circumstances of the



case, the documents are required to be verified by the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar by calling upon both the parties and, thereafter, submit his report before the learned district court and the learned district court is directed to exercise its power under Section 438 of the Cr.P.C. to consider the bail application of the petitioner on the basis of the materials available on the record and the report submitted by the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar.

9. With the above observation/direction, the present bail application stands disposed of.

(Purnendu Singh, J)

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