

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47499 of 2024**

Arising Out of PS. Case No.-227 Year-2024 Thana- KADAMKUAN District- Patna

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Avinash Kumar @ Piyush @ Abinash Kumar Son of Pramod Kumar Singh
R/O Mohalla- Ranjan Path, Lane no. 03, Near Electricity Office, P.S.-
Rupaspur, Dist.- Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvesh Kumar Singh, Advocate

:

Ms. Alka Panday, Advocate

For the Opposite Party/s : Mr. Anil Kumar, APP

For the Informant : Mr. Pranaya Shankar Sinha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER**

2 07-08-2024 Heard Mr. Sarvesh Kumar Singh, along with Ms. Alka Panday, learned counsel appearing on behalf of the petitioner; Mr. Anil Kumar, learned APP appearing on behalf of the State and Mr. Pranaya Shankar Sinha, learned counsel appearing on behalf of the Informant.

2. The petitioner apprehends his arrest in connection with Kadamkuan P.S. Case No. 227 of 2024 registered under Sections 406, 420 and 506 of the Indian Penal Code.

3. As per the allegation made in the FIR, the informant had given Rs.2,40,000/- to the petitioner (cousin of the informant) and when the informant demanded it back, the petitioner threatened him of not returning the money.

4. Mr. Sarvesh Kumar Singh, learned counsel along



with Ms. Alka Pandey learned counsel appearing on behalf of the petitioner submitted that to buy peace of mind, the petitioner undertakes to return the amount, as alleged in the FIR, to the informant.

5. Mr. Pranaya Shankar Sinha, learned counsel has tendered his appearance on behalf of the informant and submitted that as undertaking has been given on behalf of the petitioner on his instruction, the petitioner must abide by his undertaking.

6. The observation made by the Apex Court in paragraphs no. 9, 10 and 11 in case of ***Bimla Tiwari vs. State of Bihar & Ors.*** passed in ***SLP (Crl.) Nos. 834-835 of 2023***, which are, inter alia, reproduced hereinafter :

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

11. We would further emphasize that, ordinarily, there is no



justification in adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings.”

7. In view of the above principle of law laid down by the Apex Court in the case of **Bimla Tiwari (Supra)**, the petitioner himself has given his undertaking that he will return the amount, as alleged in the FIR, this Court can only observe that he must honour his undertaking in view of the fact that the informant has not availed any remedy before the Competent Civil Court for recovery of money due to him and, as such, I am constrained to give any concession to the petitioner.

8. Under the above mentioned facts and circumstances, I direct the learned District Court to release the petitioner on anticipatory bail, in the event of his arrest or surrender before the learned District Court within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned J.M.-Ist Class, Patna in connection with Kadamkuan P.S. Case No. 227 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. The learned District Court is directed to verify the criminal antecedent of the petitioner, as stated in paragraph no. 3 of the bail application. If any other case is pending against the



petitioner, as what has been stated in paragraph no. 3, this order
will lose its force automatically.

(Purnendu Singh, J.)

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