

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52021 of 2024

Arising Out of PS. Case No.-450 Year-2023 Thana- FATUA District- Patna

Amrendra Kumar Rajnish S/O Ashok Kumar R/O Railway Colony, Mirjapur
Nohta, P.S- Fatuha, Distt.- Patna. Petitioner/s

Versus

The State Of Bihar Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Harish Kumar, Advocate
For the Opposite Party/s :	Mr. Ram Sumiran Rai, APP
For the Informant :	Mr. Abhay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-08-2024 Heard Mr. Harish Kumar, learned counsel appearing on behalf of the petitioner, Mr. Ram Sumiran Rai, learned APP appearing on behalf of the State and Mr. Abhay Kumar, learned counsel appearing on behalf of the informant.

2. The petitioner apprehends his arrest in connection with Fatuha P.S. Case No. 450 of 2023 registered under Sections 406 and 420 of the Indian Penal Code.

3. As per the allegation made in the FIR, the petitioner had taken a loan of Rs. 16 lakhs from the informant and has not returned the same.

4. Learned counsel appearing on behalf of the petitioner submitted that the allegation is purely civil in nature and the same is not substantiated by any evidence in respect of the fact that by what means the said Rs.16 lakhs, as claimed by the informant, was given to the petitioner as a loan. The



petitioner has clean antecedent. On these grounds, the petitioner seeks to be released on bail.

5. Mr. Abhay Kumar, learned counsel appearing on behalf of the informant, along with learned APP for the State, have vehemently opposed the prayer for grant of pre-arrest bail.

6. Considering the rival submissions made on behalf of the parties and upon perusal of the allegation made in the F.I.R. and in absence of any evidence to substantiate the allegation that the petitioner had borrowed a sum of Rs. 16 lacs, I find in light of the observation made by the Apex Court in paragraphs no. 9, 10 and 11 in the case of ***Bimla Tiwari vs. State of Bihar & Ors.*** passed in ***SLP (Crl.) Nos. 834-835 of 2023***, that the petitioner has, *prima facie*, made out a case to be released on bail. Paragraph Nos. 9, 10 and 11 are 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. The learned District Court is directed 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 Additional Chief Judicial Magistrate, Patna City in connection with Fatuha P.S. Case No. 450 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. 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 found 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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