

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53100 of 2024

Arising Out of PS. Case No.-1380 Year-2020 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Chandra Prakash @ Chandra Prakash Jha, S/o Nunu Jha, Resident of Village
Loma, P.S. - Tistauta, Distt. - Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mithun Kumar, S/o Vasudeo Mahto, R/o vill - Baidoliya, Bishunpur, P.S. -
Jandaha, Distt. - Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate

For the Opposite Party/s : Mr. Kalyan Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 17-12-2024 Heard Mr. Pranav Kumar Jha, learned Advocate
appearing on behalf of the petitioner and the learned Additional
Public Prosecutor for the State. The opposite party no. 2 is
represented through his lawyer Mr. Ajay Kumar Singh, learned
Advocate.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 1380 of 2020 wherein cognizance has
been taken for the offences punishable under Sections 406, 420
and 504 of the Indian Penal Code.

3. The allegation against the petitioner is of extorting
money on the pretext of providing job in the army. It is
specifically alleged in the complaint that the sister of the



petitioner has negotiated for providing job and on assurance of the same, the complainant and his friends deposited Rs. 13,50,000/- till July, 2019. However, in the month of November, 2019, the brother of the petitioner, Jai Prakash Jha, died in a car accident and when the complainant and his friend went to the coaching of the petitioner in order to get his money back, he did not return the same and this way cheated the complainant and others.

4. Learned Advocate appearing on behalf of the petitioner drawing the attention of this Court to the complaint and the solemn affirmation of the complainant has contended that even if the allegation levelled therein taken to be true, there is no specific allegation that the petitioner has ever demanded any money from the complainant or his friends. The specific assertion has been made that the money has been transferred to the brother of the petitioner in his account or his sister. Moreover, the complaint was filed in the year 2020 and the cognizance has been taken for the offences as alleged on 12.01.2024. There is no material available on record which suggest that any money has been transferred in the account of the petitioner or there is any acknowledgment on the part of the petitioner of receipt of the money. Placing reliance upon the



judgment of this Court in the case of *Vijay Sharma & Anr. vs. The State of Bihar, 2011 (1) PLJR 780* it is further contended that if the complainant voluntarily parted with money for an illegal purpose of securing appointment in Government service for a money consideration, which itself was an offence and thus, he cannot urge that he has been cheated. It is lastly contended that be that as it may, the petitioner is a man of fair antecedent and he undertakes before this Court that he will fully co-operate in the proceeding.

5. On the other hand, learned Advocate for the State and the opposite party no. 2 opposed the pre-arrest bail application and submits that it is the admitted fact that the complainant and his friends went to the coaching of the petitioner, where the entire negotiation has taken place and in fact, on the instruction of the petitioner the money has been deposited in the account of his brother and sister. The complicity of the petitioner cannot be denied and the materials available on record clearly constitute the offences as alleged.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the complainant and his friend voluntarily parted with the money for an illegal purpose for securing appointment in the army,



is an illegal act, *per se*, moreover, there is no material on record which suggest that any amount has been transferred in the account of the petitioner or any acknowledgment in his part, coupled with the fair antecedent, let the petitioner above named be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-VII-Vaishali at Hajipur in connection with the Complaint Case No. 1380 of 2020, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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