

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75295 of 2023

Arising Out of PS. Case No.-10999 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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DEEPAK KUMAR SON OF MANORANJAN CHAUDHARY R/O HOUSE
NO.4, ROAD NO.1, VIVEKANAND COLONY, PATLIPUTRA, P.S.-
PATLIPUTRA, DISTRICT- PATNA, BIHAR

... .. Petitioner/s

Versus

1. The State of Bihar
2. UDAY PRATAP SINGH S/O LATE BAIKUNTH SINGH R/O PURVI
INDRANAGAR, ROAD NO.1, DUSADHI PAKRI, P.S.- KANKARBAGH,
DISTRICT- PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	: Mr. Ansul, Advocate Mr. Madan Mohan, Advocate
For the State	: Mr. Bishweshwar Ram, A.P.P.
For the Complainant/O.P. No. 2	: Mr. Rajesh Kumar, Advocate Mr. Alok Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 16-05-2024 1. Heard learned counsel for the petitioner, learned

A.P.P. for the State and learned counsel appearing on behalf of

the complainant/opposite party no. 2.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 406 and
420 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and has been falsely
implicated in the present case by the complainant. It is further
submitted that in sum and substance, the complainant alleges
that in the year 2016, he had given a friendly loan of Rs.10



lakhs which was credited in the account of the petitioner but he did not return the amount rather convinced the complainant that in lieu of the money, he will get a job for his son in the Secretariat but then the appointment of the son of the complainant was also not given nor the money was returned.

4. Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is further submitted that if what has been alleged in the complaint petition is true in that event the complainant ought to have moved before the court of competent civil jurisdiction by filing a case for recovering the monetary dues but then instituting a criminal case for recovering monetary dues is nothing but an attempt on behalf of the complainant to coerce the petitioner into submission under threat of arrest. It is next submitted that had the complainant moved before the court of competent jurisdiction by filing a money suit for recovering the amount, the petitioner would have appeared and either would have accepted or rebutted the claim of the complainant. It is also submitted that no doubt, the amount of Rs.10 lakhs was credited in the account of the petitioner but then it was not a friendly loan rather the



complainant had returned the amount which he had taken by way of loan in the year 2014. It is further submitted that all these aspects would have been brought to the notice of court of competent jurisdiction if money suit would have been filed by the complainant but then in the criminal proceeding the said aspects cannot be adjudicated.

5. Learned A.P.P. for the State and learned counsel appearing on behalf of the complainant opposed the prayer for anticipatory bail of the petitioner but then are not in a position to rebut the submissions of the learned counsel for the petitioner that the dispute is civil to which a criminal colour has been given and if the amount as alleged was given by way of friendly loan and the same was not returned in that event the complainant ought to have moved before the Court of competent civil jurisdiction for recovering the monetary dues and Criminal Courts should not be used as a tool for recovering money dues based on threat.

6. 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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Complaint Case No. 10999 of 2022, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. At this stage, learned counsel for the complainant submits that he will file a money suit. The said remedy is not barred.

(Satyavrat Verma, J)

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