

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.888 of 2024

Arising Out of PS. Case No.-1237 Year-2017 Thana- COMPLAINT CASE District- Supaul

Md. Azad @ Md. Azam @ Md. Ajeem, aged about 40 years, Gender- Male, son of Late Nasiruddin, resident of Village- Balha, P.S.- Supaul, Distt.- Supaul, at present residing at village- Parsa Punarwas, Ward No. 03, P.S and Distt.- Supaul, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Lalan Kamat, aged about 40 years, Gender- Male, S/O Chhathu Kamat, resident of Village- Balha, P.S- Supaul, Distt.- Supaul, Stat - Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kuldeep Kumar, Advocate
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner apprehends arrest in connection with Complaint Case No.1237-C of 2017 dated 15.12.2017, instituted under Section 406 of the Indian Penal Code.

3. The prosecution case, in short, is that petitioner purchased the buildings materials on the credit of the complainant as both of them had good relationship. On 02.03.2017, the complainant purchased bricks of Rs.78,400/- on his credit and gave the same to the petitioner, who promised to return back the amount with three months. Similarly, other building materials of Rs.57,650/- were also purchased on the



credit of the complainant. Besides this, the petitioner took Rs.95,000/- as cash from the complainant, but did not return the money.

4. Learned counsel for the petitioner submits that he is innocent and has been falsely implicated in this case. It is submitted that the complaint was filed under Sections 406, 420 of the Indian Penal Code, but the Magistrate after inquiry took cognizance only under Section 406 of the Indian Penal Code. It is further submitted that the complainant has not produced any documentary proof in support of his allegation and only on the basis of oral evidence cognizance has been taken. The complainant did not produce any of the shopkeepers of the building materials, who are competent to disclose the truth, during the inquiry before the Court below. The allegation is purely civil in nature. There is no iota of breach of any trust. Lastly, it is submitted that the petitioner has clean antecedents.

5. Learned APP has opposed the prayer for bail.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two



sureties of the like amount each to the satisfaction of the learned
Judicial Magistrate, 1st Class, Supual, in Complaint Case
No.1237-C of 2017, subject to the conditions laid down in
Section 438(2) of the Code of Criminal Procedure, 1973.

7. The application stands allowed.

(Khatim Reza, J)

J. Alam/-

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