

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10614 of 2024

Arising Out of PS. Case No.-1083 Year-2021 Thana- GAYA COMPLAINT CASE District-
Gaya

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Nageshwar Kumar S/O , Surith ,Singh R/O-Magadh- Colony- Road No 03
Gaya,-Pin-823001, Branch- Manager Punjab National Bank Rai Kashinath
More Branch,Ps -Civil Line-Dist Gaya,L

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar, Adv.
Mr.Mukesh Kumar Yadav, Adv.
For the Opposite Party/s : Mr.Tapeshwar Sharma, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 19-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Gaya Complaint Case No. 1083 of 2021 dated
10.08.2022 registered for the offences punishable u/s 406 of the
Indian Penal Code.

3. As per the prosecution case, the Complainant has
acquired one piece of land through sale deed no. 1919 dated
05.02.1994 which was a joint share in which his brother
Masurool Hasan Khan holds a share. The Complainant came to
know that his brother had taken a loan from PNB, Rai Kashi
Nath More, Gaya through sale deeds no. 1919 and 3195/93 and



mortgaged the property without his knowledge and consent. Due to default in non-paying the loan amount, the mortgaged property has been put to auction sale against the creditor, Mansurool Hasan Khan. On 22.07.2022, the informant sent a legal notice to the bank regarding the same, to which the bank replied that the advertisement for the auction was published by mistake and could be taken back.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that the petitioner in this case is a branch manager of the Punjab National Bank, from which the brother of the complainant availed the loan. On default of payment of a loan made by the complainant's brother, the petitioner initiated the proceedings under SARFAESI Act, 2002. Accordingly, the property on mortgage was declared a non-performing asset (NPA) on 16.04.2020 and an offer for a one time settlement was made on 02.07.2018⁷ u/s 13(2) of the SARFAESI Act 2002. The parties did not reach a conclusion against the offer for a one time settlement. The possession notice was issued on 05.01.2019. It is to be noted that the petitioner in this case is a bank official, holding a position of responsibility as a branch manager of the bank, fulfilling his



duty which was vested upon him by the procedure established by law. Learned counsel has further submitted that it is a case of civil nature relating to the recovery of debts and has been convert into a criminal case by instituting a false criminal complaint case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State has vehemently opposed the anticipatory bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Gaya in connection with Gaya Complaint Case No. 1083 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates



without reasonable cause, the
prosecution will be at liberty to move
for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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