

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4871 of 2024

Arising Out of PS. Case No.-3125 Year-2022 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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SHOLA KUMAR @ SHOLA KUMAR YADAV SON OF RAGHUBIR
PRASAD YADAV RESIDENT OF VILLAGE- ITWA (AHIRAUZIYA,
SUNDERPATTI) POLICE STATION- PAKRIDAYAL, DISTRICT- EAST
CHAMPARAN

... .. Petitioner/s

Versus

1. The State of Bihar
2. DHANJAY KUMAR JHA SON OF LATE ANAND KUMAR JHA
RESIDENT OF MUHALLA- MATHIYADIH, POLICE STATION-
CHATAUNI, DISTRICT- EAST CHAMPARAN

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anil Kumar, Advocate
For the Opposite Party/s : Mr.Prem Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 17-02-2024 1. Heard learned Counsel for the petitioner and
learned APP for the State.
2. This application, for grant of anticipatory bail,
arises out of Complaint case no. 3125 of 2022, disclosing
offences punishable under Section 406, 417 of the Indian Penal
Code.
3. As per the First Information Report, the
complainant started business of retailing the phenyl along with
co-accused Ravi Bhushan Kumar, in which the petitioner also
entered into the partnership. It has further been alleged that co-



accused Ravi Bhushan Kumar and the petitioner purchased a Mini Pick-up van through Mahindra and Mahindra Finance Limited for a total value of Rs. 4,85,000/- and instalment amount was to be deposited in account no. 6066971. When the co-accused Ravi Bhushan Kumar and the petitioner failed to deposit instalment of Rs. 14,600/- per month, they executed sell letter in complainant's name and told him to deposit instalment and further told him that upon the deposit of the full instalment, they would transfer the vehicle in his name. As per the agreement, the complainant started depositing instalment of Pick-up van through the account of his wife and a total amount of Rs. 4,55,614/- was deposited by the complainant and the co-accused Ravi Bhushan Kumar. It is further alleged that the complainant had given Rs. 3,47,000/- to the Financer. On 12.12.2022, co-accused Ravi Bhushan Kumar and the petitioner surrounded the vehicle with wrongful intention when the vehicle was going towards Pakridayal from Chakia. The petitioner and co-accused Ravi Bhushan Kumar did not hand over the vehicle to the complainant, thereby committed criminal breach of trust.

4. Learned Counsel for the petitioner submits that a commercial dispute has been given colour of a criminal case. The fact of the matter is that petitioner is the wholeseller of



phenyl. He further submits that complainant and co-accused Ravi Bhushan Kumar started the retail business of Phenyl, in which Phenyl was being supplied by the petitioner. He next submits that there is no partnership agreement between the petitioner, co-accused Ravi Bhushan Kumar and the complainant. The Pick-up van was purchased by the co-accused Ravi Bhushan Kumar in his name and on the request of complainant, he handed over the vehicle in complainant's name, however the complainant failed to deposit the instalment amount and due to non-payment of the instalment, the Finance company took the possession of the vehicle in question, as such, the present complaint has been lodged in abuse of the process of court and for putting pressure upon the petitioner.

5. Regard being had to the submissions made on behalf of the parties and taking into consideration the nature of dispute, I am inclined to grant the privilege of anticipatory bail to the petitioners.

6. This application is, accordingly, allowed.

7. Let petitioner, abovenamed, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of learned J.M. 1st class, Motihari in connection with
Complaint case no. 3125 of 2022, subject to the condition laid
down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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