

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.3027 of 2024**

Arising Out of PS. Case No.-573 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE  
District- Samastipur

=====

Manish Kumar @ Manish Kumar Singh son of Shree Shiv Shankar Singh  
Resident of Village- Singhiya Khurd, P.S.-Karpurigram, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vijay Kumar Jha Son of Late Dev Narain Jha Resident of Village-  
Akhtiyarpur, Chandauli, P.S.- Tajpur (Baini O.P.), District- Samastipur.

... .. Opposite Party/s

=====

**Appearance :**

|                      |   |                                    |
|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr. Ajay Kumar, Advocate           |
| For the State        | : | Mr. Tapeswar Sharma, APP           |
| For the Complainant  | : | Mr. Bijay Bhushan Prasad, Advocate |

=====

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

3      09-04-2024                      Heard learned Counsel for the petitioner, State and  
the Complainant.

2. The petitioner apprehends his arrest in connection with Complaint Case No. 573 of 2022 for the offence registered under sections 341, 323 and 406 of the Indian Penal Code by the complainant, Vijay Kumar Jha.

3. As per the complaint, the complainant runs a Handloom store and is in the business of selling of wholesale and retail clothes. The petitioner also runs a show-room and used to take clothes. Clothes worth Rs. 1,25,168/- was taken and assurance was made that payments shall be made within 15 days. As it was not paid, Pleader notice was sent which was not



answered. Further, on 28.04.2022, the allegation is that when the complainant went to village, Singhiya Khurd, the petitioner along with other accused persons stopped his motorcycle and after abusing, assaulted him. As the locals came, he was saved. This followed the complaint.

4. Learned Counsel for the petitioner submits that no such cloth was taken and a false complaint has been made. It is the contention of the petitioner that in a business term, there is no criminal breach of trust, there is no evidence to collect the due amount, the GST report does not show any transaction and in such matter of civil nature, no case is made out.

5. Learned Counsel appearing on behalf of the complainant, on the other hand, submits that this Court is not dealing with the quashing matter rather is in the anticipatory bail. Complaint was filed and cognizance has been taken under section 341, 323 and 406 of the Indian Penal Code. It was regular transaction when clothes were taken by him and payments were made after a fortnight. As no payment made, it is on record that a Pleader notice was sent, which was unanswered. It is his further submission that beside 406 of the Indian Penal Code, there is allegation of assault also against the petitioner and as such, it is not a mere transaction which will put it in the



category of civil nature.

6. This Court finds force in the submissions put forward by the learned Counsel for the complainant. Beside the allegation of non-payment of Rs. 1,25,168/-, there is allegation that when he was going to village Singhiya Khurd on 28.04.2022, he was abused and assaulted by the petitioner herein. Immediately, thereafter the complaint was filed.

7. In that background, no case of anticipatory bail is made out.

8. Cr. Misc. No. 3027 of 2024 stands rejected.

**(Rajiv Roy, J)**

Neha/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

