

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28172 of 2025

Arising Out of PS. Case No.-160 Year-2024 Thana- PATKHAULI District- West Champaran

Manoj Kumar Pandey, Gender - Male, aged about 59 years, S/o Late Shivkant Pandey @ Late Shivakant Pandey, Resident of Village- Patkhauli, Ward No.- 3, P.S.- Patkhauli, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Keshav Sharan Pandey S/o Late Radhakant Pandey R/o Vill.- Patkhauli, Ward No.- 3, P.S.- Patkhauli, Distt.- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vishwajeet Kumar Mishra, Advocate
For the Opposite Party/s : Mrs. Madhuri Lata, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 07-05-2025 Heard Mr. Vishwajeet Kumar Mishra, learned counsel appearing on behalf of the petitioner and Mrs. Madhuri Lata, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Patkhauli P.S. Case No. 160 of 2024 registered for the offence punishable under Sections 318(4), 329(1), 329(3), 111(2), 111(3), 111(4), 111(6), 111(7), 336(2), 338, 351(2), 329(4), 340(2), 308(1), 308(2) and 61(2) of the Bharatiya Nyaya Sanhita (B.N.S.), 2023.

3. As per the allegation made in the FIR, petitioner along with other co-accused had fraudulently sold the land belonging to the informant to some land mafia vide Sale Deed



No. 8835 dated 09.09.2024.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioner is innocent and has falsely been implicated in the present case. He further submitted that the land in question was the subject matter of Partition Suit No. 65 of 2012 and on the basis of said decree, the informant has claimed his title over the said land in which the petitioner was not a party. Subsequently, to the said decree passed in Partition Suit No. 65 of 2012, the petitioner being rightful owner of the land, had filed another Partition Suit No. 295 of 2024. The question of fraudulent transaction does not arise as the said partition suit is pending. He further submitted that matter is purely civil in nature. Petitioner has clean antecedent. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail, however, he admitted that the dispute primarily relates to the settlement of accounts between the two partners and the very nature of dispute is civil in nature.

6. I find, in light of the observation made by the Apex Court in paragraphs no. 9, 10 and 11 in the case of ***Bimla Tiwari vs. State of Bihar & Ors.*** passed in ***SLP (Crl.) Nos. 834-835 of 2023***, that the petitioner has, *prima facie*, made out a



case to be released on pre-arrest bail. Paragraph Nos. 9, 10 and 11 are reproduced hereinafter :

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

11. We would further emphasize that, ordinarily, there is no justification in adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings.”

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his/her arrest or surrender before the learned District Court within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned ACJM, Bagaha, West Champaran, in connection with Patkhauri P.S. Case No. 160 of 2024, subject to the condition as laid down under Section



482(2) of the B.N.S.S.

8. The learned District Court is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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