

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44026 of 2024

Arising Out of PS. Case No.-1720 Year-2023 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Amar Pratap Bihari son of Sri Durga Prasad Jaiswal R/o- Nawabganj Ps-
Kursela Dist- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Durga Prasad Jaiswal son of Late Tej Narayan Jaiswal Village- Nawabganj
Po- Balthi Maheshpur Ps- Kursela Dist- katihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mrs. Vaishnavi Singh, Adv.
For the State	:	Mr. Raj Ballabh Singh, APP
For the Complainant	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Vikram Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

11 09-07-2025 Heard Mr. Ajay Kumar Thakur, learned counsel appearing

for the petitioner, learned APP for the State and Mr. N.K.

Agarwal, learned senior counsel appearing on behalf of the

complainant assisted by Mr. Vikram Singh, Advocate.

2. The petitioner apprehends his arrest in a case registered

for the offences punishable under Sections 341, 323, 504, 420,

417, 418 of the Indian Penal Code.

3. The prosecution story as unfolded in the complaint is

that the complainant (father) had entrusted his son (petitioner) to

operate his business and also gave the responsibility of the C.C.

loan which was up to Rs. 90 lacs taken from the bank as bank



guarantee. It has further been alleged that the petitioner withdrew the entire amount from the bank and purchased a piece of land in his name and subsequently, got the name of his wife mutated. It has also been alleged that he did not repay the said money to the bank and thus, defalcated and misappropriated this amount and also caused insult to the complainant.

4. Learned counsel for the petitioner submits that the petitioner, being a worthy son, worked in his father's firm Durga Enterprises with all sincerity and later started his own business in the name of Maa Mira Trading and had his separate dealings. It is further submitted that the complainant, who is father of the petitioner, under pressure of his younger son and in collusion with him, started transferring lands in the name of his second son and his wife with regard to which a partition suit was filed by the petitioner on 16.08.2023 (Annexure-P/4). It is only after the knowledge of the said partition suit filed by the petitioner that the present case was filed on 23.08.2023 as a counter blast. Annexure-P/7 which is a ledger showing deposit of Rs. 90 lacs has been referred to on behalf of the petitioner to show that the entire loan amount has already been repaid. Further, a supplementary affidavit has also been filed on behalf of the



petitioner bringing on record the documents showing date-wise money transaction in the firm of the petitioner and the money transferred to Sri Durga Enterprises. The account statement of M/s Durga Enterprises has also been referred to contend that when the C.C. loan of Rs. 90 lacs was approved by the bank, the account was already in loss. Lastly, it is submitted that he had purchased land from his own income and by taking loan from the bank and all the allegations relate to business transaction which is in the form of bank to bank transaction and the dispute relates to matter of accounting.

5. Per contra, learned senior counsel appearing on behalf of the complainant has filed a counter affidavit supporting the allegations made in the complaint and has given details to show that the petitioner is trying to grab the land and property of his father (complainant) and also transferred an amount of Rs. 39,81,896/- from C.C. account of complainant to the account of his brother-in-law. The allegation of physical assault by the petitioner has also been made in addition to the offences of cheating and misappropriation of money.

6. Taking into consideration the rival contentions, it appears that there is claim and counter-claim relating to business transaction and accounting. Further, this is a dispute between



father and son and hence, the matter was also sent for mediation, but the same also failed.

7. In view of the above-mentioned facts and circumstances, it appears that the issues between the parties would eventually be thrashed out at a later stage and considering the same, I am inclined to grant the privilege of anticipatory bail to the petitioner. Let the petitioner, above named, 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 the learned lower Court where the case is pending/successor Court in connection with Complaint Case No. 1720 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

(Soni Shrivastava, J)

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