

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57134 of 2024

Arising Out of PS. Case No.-614 Year-2023 Thana- COMPLAINT CASE District- Banka

Mithilesh Kumar @ Mithlesh Kumar Son of Umesh Prasad Singh Resident of vilage bhadaria, ward no 10, P.s.- Amarpur, Dist.- Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vikash Kumar Son of Babulal Yadav R/O Moraina, P.s.- Rajoun, Dist.- Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar
For the Opposite Party/s	:	Ms. Madhuri Lata
For the O.P. No. 2	:	Mr. Balram Kapri

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 22-01-2025 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and the learned counsel appearing on behalf of the O.P. No. 2.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 406 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that he was known to the accused persons and on 02.07.2022 both accused persons came to his house and took a loan of Rs. 80,000/- with an assurance that the same would be returned within a week in terms of the agreement, thereafter the



accused persons entered into an agreement on stamp paper with the complainant with regard to selling of land and the complainant paid Rs. 7,70,000/- but the sale deed was not executed, thus, it is alleged that the complainant was cheated and his amount was misappropriated.

4. Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is also submitted that complainant himself discloses that the amount was given to the accused persons in pursuance of an agreement and if the condition of the agreement has been breached, in that event, the appropriate jurisdiction for seeking relief would be a Court of competent civil jurisdiction and not a criminal court. It is further submitted that the petitioner in the instant case is a mere witness on the agreement. It is further submitted that the instant case has been instituted only with a view to coerce the accused persons into submission so that they part with the fanciful demand of the complainant. It is next submitted that complainant ought to have filed a money suit for recovering the amount which he alleges, was given to the accused persons and the accused persons would have been in a position to rebut the contention of the



complainant in the said case. It is further submitted that the instant criminal case has been instituted with a view to coerce the petitioner into submission under fear of arrest so that the accused person part with the fanciful demand of the complainant.

5. The learned counsel appearing on behalf of the O.P. No. 2 is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that the payment was made in pursuance of agreement made and if any differences have arisen between the parties, in that event, the proper remedy for the complainant was to approach a Court of competent civil jurisdiction. The learned counsel appearing on behalf of the O.P. No. 2 further submits that petitioner is own brother of Nilesh in whose favour the payment was made and the said payment was made in presence of the petitioner and both brothers have connived to misappropriate the amount of the complainant, but then is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that petitioner is merely a witness on the agreement.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court



within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Complaint Case No. 614 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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