

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56638 of 2024

Arising Out of PS. Case No.-95 Year-2019 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Avishkar Shrivastwa @ Arishkar Ashutosh @ Avishkar Ashutosh S/o Shashi Bhushan Prasad R/o vill - Pankha Toli, P.S. - Mushari, Distt. - Muzaffarpur, Presently residing at Loyhan Moshwas Pictures Pvt., 1st Floor, E10, Sector 27, P.s. - Gautam Budh Nagar, Distt. - Noida, U.P
 2. Raja Shrivastwa S/o Shashi Bhushan Prasad R/o vill - Pankha Toli, P.S. - Mushari, Distt. - Muzaffarpur
 3. Ashish Kumar S/o Hare Ram Prasad R/o vill - Pachrukhi, P.S. - J. V. Nagar, Distt. - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Janmejay Kumar Pandey S/o Keshav Pandey R/o Adarsh Nagar, ward no. 19, P.S. - Raxaul, Distt. - East Champaran at Motihari

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shashank Shekhar, Adv
For the State	:	Mr.Dilip Kumar No. 1, APP
For the Complainant	:	Mr. Kundan Kumar, Adv

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 15-04-2025 Heard learned counsel for the petitioners and the State.

2. Petitioners apprehend their arrest in connection with Complaint Case No. 95 of 2019 registered for the offences punishable under Sections 406, 420, 467 and 468 of the Indian Penal Code.

3. The allegations made in the complaint would go to



show that the complainant was due Rs. 10 lakh which was taken from him as security money, 4 lakh in cash, 6 lakh in two cheques, 3 lakh each, in the name of work order i.e. installation of Hand pump in the district of Ara. It is said in the complaint that the said money was paid at the instance of the present petitioners. The said payment of the amount was made at the behest of these petitioners in the office of Jiwan Jyoti Trust at Delhi. However, it has been stated that no work order was given to the complainant and upon much pressure exerted on the petitioners, Rs. 4.5 lakh has been returned, out of the total amount but Rs 5.5 lakh still remains to be returned to the complainant.

4. Learned counsel for the petitioner submits at the outset, that there is no case of any forgery and so far as section 420 of the IPC is concerned, the intention to cheat should be right from the inception. The petitioners have not done anything which would amount to offence under section 420 of the IPC. Moreover, it has also been submitted that the matter arises out of civil dispute and the purpose of the complaint for which the alleged money was paid also seems to be not legal.

6. Learned APP for state and learned counsel for the complainant have opposed the bail application on merits and



have also pointed out that there is a delay on the part of the petitioners on approaching the court for grant of anticipatory bail to which learned counsel for the petitioners responded by showing paragraph -11 of the petition that the petitioners were pursuing their remedy under section 205 of the Cr.P.C in which the warrants were kept in abeyance and subsequently, the said application was dismissed on 19.01.2023. Whereafter the petitioners have approached the court for grant of anticipatory bail.

7. Considering the facts that the criminal cases cannot be used as a short cut method to recover money or damages and also considering the fact that the alleged payment was made in the office of Jiwan Jyoti Trust and the fact that a civil dispute has been given a criminal colour, the petitioners, who have no criminal antecedent deserve to be enlarged on anticipatory bail. Accordingly, in the event of their arrest/surrender within a period of four weeks from today the petitioners shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Judicial Magistrate, Raxaul at Motihari in Complaint Case No. 95 of 2019, subject to condition as laid down under Section 438(2) of



the Cr.P.C and subject to the further condition that the
petitioners shall co-operate in investigation/ trial.

(Soni Shrivastava, J)

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