

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82816 of 2024

Arising Out of PS. Case No.-95 Year-2023 Thana- BITHAN District- Samastipur

Jawahar Sah @ Jawahar Sahu Son Of Late Govind Sahu @ Govind Sah
Village- Shankarpur, Ward No.- 08, P.S.- Hasanpur, District- Samastipur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 83335 of 2024

Arising Out of PS. Case No.-95 Year-2023 Thana- BITHAN District- Samastipur

Vinod Sah @ Binod Kumar Sah S/O Jawahar Sah R/O Village- Shankarpur,
Ward No- 08, P.S.- Hasanpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 82816 of 2024)
For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
Mr. Ashok Kumar Mishra, Adv.
For the State : Dr. Indihar Kumari, APP
For O.P. No. 2 Mr. Pratik, Adv.
(In CRIMINAL MISCELLANEOUS No. 83335 of 2024)
For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
For the State : Dr. Indihar Kumari, APP
For O.P. No. 2 Mr. Pratik, Adv.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

6 03-07-2025 Heard learned counsel for the petitioners, learned

Additional Public Prosecutor for the State and learned counsel

for the opposite party no. 2.

2. Both the applications are being taken up together as

they arise out of Bithan P.S. Case No. 95 of 2023.

3. The petitioners are apprehending their arrest in a

case registered for the offence punishable under Sections 406,



420, 379, 467, 468, 34 of the Indian Penal Code.

4. The allegation in the First Information Report against the petitioners is that they have misappropriated an amount of Rs. 27,37,353/- which was the amount of sale price of the diesel, petrol etc. during the period between 28.05.2023 and 10.06.2023 and have thus cheated the informant who is the owner of petrol pump namely, M/s Maa Shakti Auto Services, who had handed over the charge of petrol pump to petitioner Jawahar Sah for managing the affairs of the petrol pump along with his son, petitioner Vinod Sah.

5. Learned counsel for the petitioners submits at the outset that there was no written agreement between the parties and the authorization letter brought on record by the opposite party no. 2 by way of the counter affidavit does not find any mention initially in the FIR. It has further been argued that even as per the first information report the informant was running the business on trust and he along with his partner and brother Pradeep Kumar were even monitoring the accounts of the petrol pump and but for the period indicated in the FIR there had been no default on the part of the petitioners at any earlier point of time. Further, the allegation of stealing of cheque is also not true and as a matter of fact, there was a negotiation for the sale of the



petrol pump against which the petitioners had already paid an amount of Rs. 45,00,000/- in lieu of which a cheque of the same amount had been handed over to the petitioners as security. Since the opposite party no. 2 refused to execute the said agreement the petitioners had deposited the said cheque of Rs. 45,00,000/- issued by the informant against which the payment was not made and once the petitioners filed a pleader notice on 24.06.2023, only thereafter the present FIR came to be lodged on 10.07.2023 and hence, the present case is nothing but a counter blast of the pleader notice and a subsequent complaint case was filed by the petitioners in which cognizance has also been taken against the informant and only with a view to pre-empt himself from proceedings under the Negotiable Instruments Act, the present first information report has been lodged against the petitioners.

6. Learned APP for the State and learned counsel for the opposite party no. 2 have vehemently opposed the application for anticipatory bail to the petitioners.

7. A counter affidavit has been filed on behalf of the opposite party no. 2 stating the fact that the petitioners were issued an authorization letter to manage the affairs of the petrol pump and they have deliberately misappropriated the sale



proceeds of the petrol pump by depositing the same into their own account. Further, the allegation of misuse of cheque of Rs. 4,25,000/- dated 05.06.2023 finds support from para-19 of the case diary. The learned counsel for the informant raises strong objection to the conduct of the petitioners of misappropriating a total amount of Rs. 31,62,353/- which also finds support from the materials collected during the course of investigation.

8. However, it has been submitted that so far as the petitioner Vinod Sah in Cr. Misc. No. 83335 of 2024 is concerned, there is no specific allegation against him in the First Information Report and he has only been said to be assisting his father in the management of the petrol pump but by way of the counter affidavit, the learned counsel for the opposite party no. 2 has submitted that petitioner Vinod Sah is also a manager of the said petrol pump.

9. At this stage, learned counsel for the petitioners, although not admitting the allegations made against the petitioners, only by way of showing their bonafide, propose to make payment of an amount of Rs. 4,25,000/- which was the alleged misappropriated cheque amount as alleged by the informant. However, it is submitted that the payment of the said amount would be subject to final result of the case.



10. Taking the rival contentions into consideration, it appears that there is a claim and a counter claim which would be thrashed out during the course of trial by way of leading evidence and as of now the whole dispute remains with regard to money and business transaction between the parties. In such view of the matter, let the above named petitioners in the event of their arrest or surrender before the learned Court below within a period of eight weeks from today, be enlarged on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bithan P.S. Case No. 95 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C./482(2) of the B.N.S.S.

11. It is made clear that a proof of the payment of the amount of Rs. 4,25,000/-, as proposed on behalf of the petitioners, would be produced at the time of furnishing of the bail bonds and only after being satisfied with the same, the bail bonds shall be accepted. The said amount would be subject to final result of the case.

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(Soni Shrivastava, J)

