

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87170 of 2024

Arising Out of PS. Case No.-50 Year-2018 Thana- COMPLAINT CASE - SHERGHATI
District- Gaya

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Mohan Prasad, S/o Chandru Mahto @ Chanda Mahto R/o Village- Piparwar,
P.O- Maigra, P.S- Maigra, Distt.- Gaya (Bihar), Pin Code- 824206.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kulendra Singh S/o Late Rameshwar Prasad, R/o Village- Shankarpur, P.S-
Lutua Presently Residing at Mohalla- Imamganj, P.S- Imamganj, Distt.-
Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amritanshu Dangi, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 08-05-2025 Heard learned Advocate for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 50 of 2018 wherein cognizance has
been taken for the offence punishable under Section 406 of the
Indian Penal Code.

3. It is alleged in the complaint petition that on
17.07.2016, the petitioner and the complainant entered into an
agreement with regard to supply of cement and iron rod worth
Rs.3,82,000/- with condition that the petitioner will return the
amount within six months and if any amount remains due, he
would pay the same with Bank rate interest. Despite the period



came to an end, when the complainant demanded for money, the same has not been returned; hence, the complaint petition.

4. Learned Advocate for the petitioner after taking this Court through the complaint petition has contended that the allegation against the petitioner relates to commercial dispute arising out of a business transaction and if there is a mere breach of contract that cannot give rise to criminal prosecution for criminal breach of trust. It is further submitted that to constitute an offence under Section 406 of the Indian Penal Code, there must be an allegation of misappropriation done in dishonest manner, which is not available on record. Moreover, good sense prevailed between the parties and they have settled their dispute outside the Court. The undertaking given by the petitioner has already been honoured. It is lastly contended that be that as it may, the petitioner bears fair antecedent and he undertakes before this Court that he will fully cooperate in the proceedings of the Court.

5. Learned Advocate for the State opposed the bail application and submitted that there is a material which constitute an offence punishable under Section 406 of the Indian Penal Code.

6. Regard being had to the submissions made on



behalf of the parties and considering the submissions advanced by the learned Advocate for the petitioner that the dispute whatever with regard to the money transaction came to be settled between the parties and moreover the petitioner bears fair antecedent and despite the service of the notice, the O.P.2 chose not to appear, which also fortified the submissions of the petitioner regarding settlement of the dispute, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned J.M. 1st Class, Sherghati, Gaya in connection with Complaint Case No. 50 of 2018, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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