

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 89349 of 2024

Arising Out of PS. Case No.-128 Year-2024 Thana- KASBA District- Purnia

Md. Ashfaque @ Ashfak Ali S/o- Farid @ Farid Nadaf @ Md. Farid Resident
of Village- Kamalpur PS- Kasba District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md Fazle Karim

For the Opposite Party/s : Mr.Anish Chandra

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-01-2025 Heard learned Advocate for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Kasba P.S. Case No. 128 of 2024, registered for the offences punishable under Section 406 of the Indian Penal Code.

3. Based upon the written report, the prosecution alleges that on 03.03.2023, the informant after withdrawing an amount of Rs. 1,00000/- from her account in Bandhan Bank handed over the same to the petitioner with a direction to give at her house as she had to go to Purnia for some work. Despite the promise made by the petitioner that he will hand over the amount to her husband, the same was not given. By one pretext or the other, the petitioner did not refund the amount which



resulted into *panchayati* wherein the petitioner admitted that he will return the same within 10 days but it has not been done and when the informant went to the house of the petitioner, he abused and misbehaved with her.

4. Learned Advocate for the petitioner referring to the FIR contended that the alleged occurrence took place on 03.03.2023 but for the first time the written report has been submitted before the police on 08.06.2024, i.e., after a delay of more than a year. There is no chit of paper which suggests that any amount has been handed over to the petitioner. It it next contended that in fact the petitioner is a tempo driver and on the basis of contract, the husband of the informant had hired the petitioner for delivering the grocery to the School and Madarsa by promising to pay the rent later on but he refused to do so which resulted into lodging of the complaint case bearing Complaint Case No. 1410 of 2024, copy of which is marked as Annexure-3 to the bail application. It is also contended that the petitioner was brutally thrashed by the husband of the informant due to which he sustained serious injuries and was under treatment in GMCH, Purnia. It is lastly contended that, be that as it may, the petitioner has absolutely fair antecedent and the crime in question is triable by the learned Magistrate.



5. On the other hand, learned Advocate for the State vehemently opposes the bail application and submits that the story of the petitioner *prima facie* appears to be not trustworthy and the FIR bears the signature of many co-villagers, which supports the allegation levelled in the FIR.

6. Regard being had to the submissions made on behalf of the parties and considering the delay of one year in lodging of the FIR, coupled with the fair antecedent of the petitioner and the crime in question is triable by the learned Magistrate, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnia in connection with Kasba P.S. Case No. 128 of 2024, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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