

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58342 of 2021

Arising Out of PS. Case No.-67 Year-2021 Thana- GAYA MUFASIL District- Gaya

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Ram Nandan Singh S/O Late Murarinandan Sharma R/O Village And P.O-
Sonout, P.S-Mufassil, District-Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Satya Prakash @ Bittu R/O Village-Chitawan, P.S-Kutumba, District-Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate
	:	Mr. Vardaan Mangalam, Advocate
	:	Mrs. Ritika Rani, Advocate
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 02-02-2026 Heard learned counsel for the petitioner and
learned APP for the State.

2. The present application has been filed for
cancellation of bail granted to the opposite party no.2 by order
dated 25.03.2021 passed by the Court of learned District and
Sessions Judge, Gaya in A.B.P. No. 889 of 2021.

3. Short facts of the case relates to the fact that the
opposite party no.2 has committed offence of cheating and
criminal breach of trust by not returning the amount to the tune
of Rs.29 lakhs and odd taken by him for the purposes of
registering a plot of land in favour of the petitioner.

4. The learned counsel for the petitioner submits



that the order granting anticipatory bail to the opposite party no.2 has considered the present case to be one of civil nature and has considered that there can be some future chances of settlement of dispute and the money can be recovered from civil proceeding, however, the present case relates to offence of cheating having been committed as the opposite party no.2 after having taken a huge amount for the purposes of registration of land in favour of the informant has gone back on his words and has thus committed criminal breach of trust also.

5. This Court has gone through the contents of the First Information Report as also the order granting anticipatory bail to the opposite party no.2 and upon perusal of the same, this Court finds that the learned Sessions Judge, Gaya has passed a well reasoned order considering the entire aspects of the case and also considering the materials that have been collected during the course of investigation. It has also been considered that the dispute involves financial transaction between the parties and the petitioner would always have the alternative remedies to recover the alleged amount. It has also been considered that the opposite party no.2 is not even the owner of the concerned plot of land and the said land stands in the name of different person and no case under Section 138 of Negotiable



Instrument Act has been filed for dishonour of cheque relating to Rs.1,00,000/- given by the opposite party no.2 to the petitioner.

6. Taking into consideration the fact that the Hon'ble Supreme Court has also laid down law in this regard that the criminal cases or bail proceedings must not be used as a tool for recovery of money, as held in the case of **Bimla Tiwary vs. State of Bihar, reported in (2023) 11 SCC 607**, and not honoring of agreement would also not strictly fall within the ambit of a criminal proceeding unless and until a clear case of cheating right from the inception is made out.

7. In such view of the matter, this Court does not find any infirmity with the order dated 25.03.2021 passed by learned District and Sessions Judge, Gaya whereby anticipatory bail has been granted to the opposite party no.2, as such, the present application stands dismissed.

8. Needless to say, the petitioner would always have the liberty to take recourse to other alternative remedies for recovering of his amount. However, the learned Court concerned is directed to proceed in the matter expeditiously.

(Soni Shrivastava, J)

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