IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62452 of 2025

Arising Out of PS. Case No.-2624 Year-2023 Thana- EAST CHAMPARAN COMPLAINT District- East Champaran

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Anoj Kumar S/o- Rajendra Singh Resident of Village - Matiariya Hata Tola, P.S. - Harsidhi, District - East Champaran

... ... Petitioner/s

Versus

1. The State of Bihar
2. Bachchi Devi W/o- Chhotan Singh Moh- Sri Krishna Nagar (Gayatri Nagar) Ps- Town Motihari Dist- East Champaran

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Madhurendra Kumar, Advocate

For the Opposite Party/s : Mr.Tapeshwar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

5 11-02-2026 Heard Mr. Madhurendra Kumar, learned counsel appearing on behalf of the petitioner and Mr. Tapeshwar Sharma, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Complaint Case No. C-2624 of 2023 registered for the offence(s) punishable under Sections 380, 420, 406, 408, 467, 468, 471, 504 of the Indian Penal Code.

3. Prosecution case, in brief, is that, the complainant (aunt of the petitioner) filed Complaint Case No. 2624/2023 alleging that she purchased land in 1997 and built a three-storey house where the petitioner and his family have been residing since 2014 with her permission. The complainant alleges that

while she was mostly living in Patna, the petitioner took her land documents and passbook from her locker without her consent. It is further alleged that the petitioner along with other accused mortgaged her property documents to obtain a loan of ₹55,00,000 from Punjab National Bank in the name of “Nehal Poultry Farm,” which later became NPA. Complainant received notice under the SARFAESI Act and her house was sealed, and she had to pay ₹53,33,132, while the petitioner paid only a part amount. The complainant has also lodged FIR against the petitioner in connection with Motihari Town P.S. Case no.199 of 2024.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in the case. He further submits that the matter primarily relates to monetary transaction between the parties and for amicable settlement of dispute between the parties outside the Court, the matter be referred for mediation.

5. Learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

6. Learned counsel appearing on behalf of the petitioner, on instructions, submitted that the petitioner has

agreed to appear before the learned District Court at 10:30 A.M. on 18.02.2026.

7. Heard the parties

8. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR, I am of the opinion that an opportunity is required to be given to the parties to settle their score amicably outside the Court.

9. In this regard, I find it apt to take note of the observation made by the Apex Court in case of ***Paramjeet Batra v. State of Uttarakhand*** reported in ***(2013) 11 SCC 673***, in which, the Apex Court in paragraph no. 12 has held as follows:

> *"**12.** While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. <u>A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."</u>*
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> *<u>(emphasis supplied)</u>*

10. The Apex Court has reiterated the aforesaid

proposition in recent judgment of ***S. N. Vijayalakshmi & Ors. vrs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575***.

11. The Apex Court while considering the content of ingredients of Sections 406 and 420 of the Indian Penal Code in the case of ***Delhi Race Club (1940) Ltd. & Ors. vs. State of Uttar Pradesh & Anr. in Criminal Appeal No. 3114 of 2024***, after discussing the earlier law laid down in several cases, has observed in paragraphs nos. 35, 36 and 37, *inter alia* as follows:

> ***Difference between criminal breach of trust and cheating***
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> ***35.*** *This Court in its decision in S.W. Palanitkar v. State of Bihar S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241 expounded the difference in the ingredients required for constituting of an offence of criminal breach of trust (Section 406 IPC) vis-à-vis the offence of cheating (Section 420). The relevant observations read as under :*
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> *"9. The ingredients in order to constitute a criminal breach of trust are : (i) entrusting a person with property or with any dominion over property; (ii) that person entrusted : (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.*
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> *10. The ingredients of an offence of cheating are : (i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii)(a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) in cases covered by (ii)(b), the act of omission should be one which causes or is likely to cause damage or harm to the person induced in*

body, mind, reputation or property."

36. *What can be discerned from the above is that the offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients:*

In order to constitute a criminal breach of trust (Section 406 IPC)

(1) There must be entrustment with person for property or dominion over the property, and

(2) The person entrusted:

(a) Dishonestly misappropriated or converted property to his own use, or

(b) Dishonestly used or disposed of the property or wilfully suffers any other person so to do in violation of:

(i) Any direction of law prescribing the method in which the trust is discharged; or

(ii) Legal contract touching the discharge of trust (see : S.W. Palanitkar [S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241.

Similarly, in respect of an offence under Section 420IPC, the essential ingredients are:

(1) Deception of any person, either by making a false or misleading representation or by other action or by omission;

(2) Fraudulently or dishonestly inducing any person to deliver any property, or

(3) The consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see : Harmanpreet Singh Ahluwalia v. State of Punjab [Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712.

37. *Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception."*

12. The petitioner has willingly desired to appear before the learned District Court on or before 18.02.2026, so that the matter can be referred to the District Mediation Centre.

13. Learned District Court is directed to take necessary steps to issue notices to the respective parties and upon their appearance, refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

14. Learned Mediator of the District Mediation Center concerned, upon appearance of the parties, shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioner in connection with the aforesaid case.

15. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, in light of the law laid down by the Apex Court as referred hereinabove, the petitioner is required to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

16. In case of failure on the part of the petitioner to appear on 18.02.2026 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.

17. In case, it is deliberate on the part of the

informant to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

18. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy. Then also, petitioner is directed to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

19. If both the parties arrive at amicable settlement, then they must withdraw the criminal cases, if any, which they have lodged against each other.

20. With aforesaid direction and observation, the present application stands disposed of.

(Purnendu Singh, J)

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