

(2021) 06 PAT CK 0096

Patna High Court

Case No: Criminal Miscellaneous No. 35505 Of 2020

Raju Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: June 22, 2021**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 438(2)
- Indian Penal Code, 1860 - Section 406, 420

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** S K Lal, Rajendra Prasad Nat**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. S K Lal, learned counsel for the petitioner and Mr. Rajendra Prasad Nat, learned Additional Public Prosecutor (hereinafter referred to as the "APP") for the State.
3. The petitioner apprehends arrest in connection with Begusarai Town PS Case No. 451 of 2019 dated 07.08.2019, instituted under Sections 406 and 420 of the Indian Penal Code.
4. The informant, who was Chief Manager, State Bank of India, Begusarai, has alleged in the FIR that the petitioner being the proprietor of M/s Shri Vinayak Auto had taken loan of Rs. 2.5 crores under the Mortgaged-Dealer Financing Scheme from the State Bank of India, Begusarai and had not deposited the outstanding amount of Rs. 20 lakhs within the stipulated 120 days.

5. Learned counsel for the petitioner submitted that from the entire FIR, it is apparent that absolutely no criminal case is made out against the petitioner as it is a purely civil dispute which discloses that the informant's grievance is that the entire loan amount of the petitioner was not repaid to the Bank within time. Thus, it was submitted that the criminal prosecution itself is an abuse of the process of the Court. However, even on merits, learned counsel submitted that the petitioner had repaid the entire amount well within time and in proof thereof, learned counsel drew the attention of the Court to Annexure-2, which is copy of the statement of the concerned loan account of the petitioner which discloses that the petitioner had in fact paid Rs. 798/- in excess of the amount which was due to be paid which was subsequently transferred into the Savings Bank account of the petitioner and the said loan account was also shown to have been closed. Learned counsel submitted that the petitioner is a man of reputation running a business and has no criminal antecedent.

6. Learned APP submitted that the petitioner had not repaid the entire amount. However, he could not meet the submission of learned counsel for the petitioner that even if the allegation in its entirety is taken to be true, it would only constitute a civil offence for which there is sufficient remedy under various laws available to the Bank to get back the money which is claimed to be due against the petitioner.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Begusarai in Begusarai Town PS Case No. 451 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of his bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

9. The application stands disposed off in the aforementioned terms.