

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24738 of 2015

Arising Out of PS.Case No. -28 Year- 2014 Thana -KOTWA District-
EASTCHAMPARAN(MOTIHARI)

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Munna Sharma @ Munna Kumar Sharma, Son of Shri Vishwanath Sharma
r/o vill. - Bangra, P.S. Kotwa, District East Champaran.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate.

For the Opposite Party/s: Mr. A.L. Pandit (App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 25-08-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Sections 406 and 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act, when the petitioner has not obviously denied the fact that he had issued a cheque of a sum of Rs. 90,000/- in favour of one Muni Lal Prasad Kushwaha , which had bounced, this Court would not inclined to grant privilege of anticipatory bail to the petitioner.

When such an observation has been made, learned counsel for the petitioner submits that the petitioner shall pay the said amount but then the same should be kept subject to the result of the trial.

That being so, if the petitioner, namely, Munna Sharma



@ Munna Kumar Sharma surrenders before the court below within a period of eight weeks from today and produces a bank draft of Rs. 90,000/- in the name of Muni Lal Prasad Kushwaha, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Sadar, Motihari in connection with Kotwa P.S. Case No. 28/2014; subject to the following conditions:

- (i) The aforesaid amount of Rs. 90,000/- in the form of bank draft of the name of Muni Lal Prasad Kushwaha, shall be given to him immediately by obtaining an undertaking from him that in the event the petitioner succeeds in trial and is exonerated of his charges by the trial court, such amount of Rs. 90,000/- shall be refunded by the informant Muni Lal Prasad Kushwaha again by a bank draft in the name of the petitioner. It however goes without saying that if the petitioner is convicted, the aforesaid amount would be retained by the aforesaid informant, apart from any another punishment, that may be inflicted by the trial court on the petitioner.
- (ii) That both the bailors will be close family relatives of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform

the court if there is any change in the address of the petitioner

- (iii) That the affidavit shall clearly state that the petitioner is not accused in any other case and if he is, he shall not be released on bail.
- (iv) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of his bail on the ground of misuse.
- (v) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

It also goes without saying that whatever observation has been made in this order is only for the purpose of granting anticipatory bail to the petitioner and the same will not prejudice him in any manner in course of trial.

(Mihir Kumar Jha, J)

Sujit/-

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