

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.36740 of 2013**

Arising Out of PS.Case No. -664 Year- 2011 Thana -PATNA COMPLAINT CASE District-  
PATNA

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1. Bijay Kumar S/O Shri Banke Biyogi Mahto @ Banka Mahto Biyogi  
Resident Of Mohalla Near Sant Mary School, Church Road, P.S. + District  
Bettiah (West Champaran).

.... .... Petitioner/s

Versus

1. The State Of Bihar  
2. Pankaj Kumar, son of Shiv Shankar Prasad, resident of Devi Market,  
P.S.- Chowk, District- Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Pramod Mishra  
For the Opposite Party/s : Mr. M.K.Nirala (App)

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL**  
**ORAL ORDER**

8      03-07-2015      Heard the Counsel for the petitioner and the APP for  
the State.

The petitioner is facing accusations in Complaint  
Case No. 664 of 2011 under section 420 of the Indian Penal Code  
and Section 138 of the N.I. Act.

The allegation precisely is that certain amount was  
given by the complainant to the petitioner for investment in the  
share. Consequently, the amount was demanded which was not  
returned instead 07 cheques, each in the sum of Rs. One lac, were  
issued in favour of the complainant which on submission in the  
bank were dishonoured for want of insufficient money.  
Accordingly, the complaint has been lodged with these

allegations.

Learned counsel submits that both the parties have business transactions. Apart from the present one, there is evidence that they have been doing business of investment. It cannot be said that there was dishonest intention on the part of the petitioner when the amount was taken and invested in shares. The formalities of requirement under Section 138 of N.I. Act have not been gone into. The dispute is essentially of civil in nature. However, the petitioner for obtaining privilege of anticipatory bail is ready to deposit certain percentage of the amount without being prejudice to his right and defence.

Counsel for the complainant, on the other hand, states that the petitioner has a traced history of commission of such crime. The cheques were issued in due discharge of the liability which, however, were dishonoured/bounced. Resolution of dispute by resorting to civil proceeding do not exonerate him with criminal liability if the allegation constitute such.

Considering the facts and circumstances of the case, in the event of arrest or surrender in the Court below within four weeks, the petitioner abovenamed is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the

satisfaction of Judicial Magistrate, Patna City, Patna in Complaint Case No. 664 of 2011 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with the further following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) In case of framing of charge, the petitioner shall appear in person on each and every date fixed in the Court below. In case of default in doing so on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioner and secure his arrest in accordance with law.

(iii) Along with the bail bonds, the petitioner shall furnish demand draft/bank instrument in the sum of Rs. 1.75 lakhs favouring the complainant which the complainant would be entitled to withdraw on furnishing undertaking. Such deposit so made by the petitioner shall be without prejudice to his right and defence in the case.

**(Kishore Kumar Mandal, J)**

Pankaj/-

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