

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10106 of 2015

Arising Out of PS.Case No. -161 Year- 2013 Thana -NAWADA District- NAWADA

1. Ritesh Kumar Agrawal Son of Late Nand lal Agrawal Resident of Sabzi Bazar, Nawada, P.O+P.S.- Nawada, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal

For the Opposite Party/s : Mr. Ajay Kr. Jha (App)

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

7 15-09-2015 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the complainant as well as learned counsel for the State.

The petitioner apprehends his arrest in connection with a case registered for the offences punishable under Section 420/406/323/504/141 of the Indian Penal Code and Section 138 of the N.I. Act.

Learned counsel for the petitioner submits that the present prosecution has emanated from a complaint case on the basis of which the present First Information Report was registered and the petitioner is being proceeded under Section 138 of the N.I. Act as well. He submits that so far as the allegation levelled under Sections 406 and 420 of the Indian Penal Code are concerned, the



petitioner cannot be prosecuted as well in view of the fact that in the complaint petition itself, it has been stated that the petitioner had issued cheques in favour of the complainant which were not utilized by her of her own account. Subsequently, the allegation has been made against the petitioner for issuing cheques which could not be honoured.

Learned counsel for the complainant, however, submits that there was business relation between the parties and in order to establish the same a supplementary counter affidavit has been filed today bringing on record an agreement which goes to show that the son of the complainant and the petitioner were indeed partners in business. He further submits that this is not the first occasion in which the petitioner has defrauded this complainant but it has been a practice with him to indulge in such activities with other parties as well, for which he is facing prosecution.

Considering the overall submission made by the parties and also appreciating the argument of learned counsel appearing on behalf of the petitioner that the petitioner cannot be prosecuted under the provisions of Section 138 of N.I. Act on the basis of a First Information Report registered against him and also further that the case against him under Section 406 and 420 are not made out and in view of the specific stand taken by the

complainant that the petitioner had issued cheques which was not utilized by her, let the petitioner Ritesh Kumar Agrawal in the event of his arrest / surrender within a period of three weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the each amount to the satisfaction of the learned Chief Judicial Magistrate, Nawada in connection with Nawada Nagar P.S. Case No. 161/2013, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

It is further made clear that the petitioner shall make himself available for all investigation and co-operate in the trial at all material times.

(Anjana Mishra, J)

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