

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17323 of 2015

Arising Out of PS.Case No. -498 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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Bhuban Yadav Son of Late Upendra Rai, resident of village- Bhagwanpur,
P.S.- Dhabauli, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Chandra Sah, son of Sri Ram Sakal Sah, resident of village-
Jawaharpur, P.S.- Ujiarpur, District- Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar @ Alok Kr Shahi

For the Opposite Party/s : Mr. Parmanand Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 25-06-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 406 & 420 of the Indian Penal Code and Section 138 of Negotiable Instruments Act, this Court would find that when the petitioner had given a cheque of Rs. 24,300/- only and in fact was also prepared to pay the said amount to the complainant Ramchandra Sah, the court below ought to have not imposed the liability of payment of Rs. 80,000/- which was the subject matter of allegation of the complaint petition.

Learned counsel for the petitioner has submitted that the petitioner is still ready to pay the amount of Rs. 24,300/- for which the cheque was given by him. Since the cheque was given

by the petitioner on 21.7.2012 and now we are in the month of June, 2015, the petitioner shall be liable to pay also the interest of the aforementioned amount being Rs. 5,000/- approximately, atleast at the rate of 6% per annum for the period of three years.

Thus, if the petitioner, namely, Bhuban Yadav appears before the court below and produces a bank draft in the name of complainant opposite party no.2 for a sum of Rs. 29,300/-, he shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Mr. K.D. Rajaji, Judicial Magistrate, 1st Class, Dalsinghsarai, Samastipur in connection with C.R. No. 498 of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) The bank draft said amount of Rs. 29,300/- produced by the petitioner shall be handed over to the complainant opposite party no.2 but the same shall remain subject to the outcome of the criminal case.
- (ii) That both the bailors will be a close relative 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 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 bail on the ground of misuse.

(iv) 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.

(Mihir Kumar Jha, J)

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