

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23673 of 2015

Arising Out of PS.Case No. -695 Year- 2013 Thana -SITAMARHI District- SITAMARHI

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1. Shiv Kumar Bhagat @ Munna Bhagat son of Late Madhusudan Bhagat
resident of 23-A, Janki Villa, Basant Vihar Colony, Boring Road, P.S.- Sri
Krishna Puri, District- Patna- 800001.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Gupta, Director,
Ram Sati Cold Storage Private Limited,
Sitamarhi, P.S. & District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti
For the Opposite Party/s : Mr. N.K.Agrawal, Sr.Adv.
Mr. Pushpendra Kumar
Mr. Anuj Kr.Srivastav,A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 22-09-2015 Heard learned counsel for the petitioner and the State.

The petitioner is apprehending his arrest in a case
instituted under Sections 406 and 420 of the Indian Penal Code
and Section 138 of the Negotiable Instrument Act.

The prosecution story, in brief, is that the government
issued a tender in the year 2012 for supply of country made liquor
in sachet. It is further alleged that the complainant wanted to apply
for the aforesaid contract but was not fulfilling the conditions.
Thereafter, the complainant made request with the petitioner to fill
up the tender and the complainant will give money to the
petitioner. Thereafter, the complainant paid Rs. 32 lacs in cash to



the petitioner and also deposited Rs. 48 lacs through his bank account to the account of the petitioner. The company of the petitioner was not selected during tender. Thereafter the informant/complainant made request to the petitioner to return the money. The petitioner gave post-dated two cheques of Rs. 24 lacs to the informant. The informant deposited both the cheques and both the cheques were dis-honoured with the endorsement of insufficient fund. It is further alleged that the petitioner did not return Rs. 32 lacs to the informant/complainant inspite of several demands and mis-appropriated the money of the informant/complainant.

It has been submitted on behalf of the petitioner that it is an admitted fact that a cheque of Rs. 48 lacs was issued by the petitioner in favour of the complainant for which the present prosecution was lodged. As per complaint, there was claim of another Rs. 32 lacs, which is said to have been paid to the petitioner by the complainant in cash. The petitioner disputes the said amount. The complaint was filed on 08.07.2013 and the petitioner has paid Rs. 48 lacs to the complainant, which happens to be the cheque amount, on 11.08.2014 and 13.09.2014, which is evident from Annexure 2 to the present application. Further it is submitted that the petitioner is ready to pay Rs.

75,000/- in addition to that, to the complainant within a period of four weeks.

On behalf of the State and the counsel for the complainant it is submitted that the petitioner is named in the FIR.

Considering the aforesaid facts, it is directed that the petitioner shall pay Rs. 75,000/- to the complainant within a period of four weeks.

Let the above named petitioner, in the event of his arrest or surrender in the court below within a period of six weeks, 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 learned C.J.M., Sitamarhi in connection with Complaint Case No. 695 of 2013, subject to the conditions as laid down u/s 438(2) Cr.P.C.

(Sudhir Singh, J)

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