

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25265 of 2016

Arising Out of PS.Case No. -3309 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Sanjeev Srivastava @ Sanjeev aged about 50 years Son of late Madan Prasad Srivastava Resident of A/12, Sector-24, PS Kotwali, Noida (Uttar Pradesh), at Present Managing Director M/S Assotech Ltd. regd, Officer at 148/F, Pocket-IV Myour, Vihar, Phase-I New Dehli 11091

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ansul

For the Opposite Party/s : Mr. Bharat Bhushan(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

2 15-06-2016 Supplementary affidavit is filed on behalf of the
petitioner.

The defect, as pointed out by the office, has already
been removed.

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with
Complaint Case No. 3309 (C) of 2015 registered for the offences
punishable under Sections 406, 420 of the Indian Penal Code and
Section 138 of the Negotiable Instruments Act.

Petitioner happens to be builder whereas complainant



claims that he booked three properties and gave advance to the petitioner. Furthermore, complainant claims that he has no grievance in respect of two properties but so far as third property is concerned, he gave Rs.50 lacs in advance but even after lapse of four years, neither the property was handed over to him nor his advance was returned. The complainant gave legal notice and after that petitioner gave two cheques amounting to Rs.25 lacs as well as Rs.9 lacs but when the aforesaid cheques were presented before the concerned bank, the same became bounced and after that complainant filed the present complaint case.

The contention on behalf of the petitioner is that the complainant invested some money in the company of the petitioner and time to time interest of the principle amount was paid to the complainant which is evident from perusal of Annexure-2 series to the petition but, subsequently, due to recession, the company of the petitioner went in loss and after that the complainant got cancelled his agreement and taking advantage of the recession of the company of the petitioner, he lodged this false case against the petitioner. It is further contended by him that the aforesaid fact clearly goes to show that there was business transaction between the parties and the present case comes under the civil dispute. It is further submitted that the learned court

below without applying his judicial mind took cognizance of the offences punishable under sections 406 and 420 of the Indian Penal Code. It is also submitted on behalf of the petitioner that even if prosecution story is assumed to be true, then also, at best, it is a case of Section 138 of the Negotiable Instruments Act and there is no application of Sections 406 and 420 of the Indian Penal Code.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/surrender within four weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Patna in Complaint Case No. 3309(C) of 2015, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

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