

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 33196 of 2016

Arising Out of PS.Case No. -2471 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Chandradeo Mahto
 2. Satish Kumar

Both are sons of Shankar Mahto, resident of Pratibha House, First Floor, Gorakh Nath Lane, East Boring Canal Road, Patna at present residing at Viashnavi Kunj, New Harni Chak, New Bypass Road, P.S. Beur, District Patna.

.... Petitioners

Versus

1. The State of Bihar
2. Uma Shankar Chaudhary S/o Late Mundrika Chaudhary R/o Village Harnichak, P.O. Anisabad, P.S. Beur, District Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan
For the Opposite Party/s : Smt. Asha Kumari
Mr. Deepak Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 30-11-2016 Heard Sri Rajesh Ranjan, learned counsel for petitioners, learned Addl. Public Prosecutor as well as Sri Deepak Kumar, learned counsel, who has appeared on behalf of complainant/opposite party no. 2.

Two petitioners, apprehending their arrest in Complaint Case No. 2471(C) of 2013 registered for offence under Sections 323, 379 of the Indian Penal Code, have prayed for grant of anticipatory bail.

In this case, by order dated 24-08-2016, while directing for issuance of notice to opposite party no. 2, a Bench of this Court had directed for releasing the petitioners on provisional

anticipatory bail.

Learned counsel for petitioners submits that the petitioners, in view of earlier order, have already surrendered and granted provisional anticipatory bail. It was submitted by learned counsel for petitioners that the complainant/opposite party no. 2 has filed complaint petition on completely false accusation and this was the reason that at first instance, after enquiry, the learned Magistrate had rejected the complaint petition, thereafter, the complainant preferred a revision, vide Criminal Revision No. 3895 of 2014, which was allowed and matter was remitted back for fresh consideration. Only thereafter, the present proceeding has further been initiated. It was argued that petitioners initially had taken a loan from the complainant for an amount of Rs. 1, 38,000/- (one lac & thirty eight thousand) through cheque and in lieu of that amount, the petitioners had given a post-dated cheque for an amount of Rs. 1,78,000/- (one lac & seventy eight thousand) with contemplation that the excess amount i.e. Rs. 40,000/- (forty thousand) to loan amount shall be treated as interest amount. He submits that subsequently, dispute was resolved by a Panchayati and before Panchayat, the petitioners have already returned Rs. 1,38,000/- (one lac & thirty eight thousand) in cash and he has taken back the cheque. It has been argued that subsequently the

complainant wanted the interest amount of Rs. 40,000/- (forty thousand) and since the said demand was not fulfilled, the present false case has been instituted.

Learned counsel appearing on behalf of complainant has opposed the prayer for grant of anticipatory bail. It was argued that it was specific case of assault on the complainant as well as the fact that forcibly the petitioners have taken the cheque without payment of any amount.

Be that as it may, keeping in view the fact that petitioners were initially directed to be released on provisional anticipatory bail as well as the fact that at first instance, the complaint petition itself was rejected under Section 203 of the Cr.P.C., the Court is of the opinion that it is a fit case for grant of anticipatory bail.

Accordingly, the petition is allowed.

The earlier provisional anticipatory bail order is hereby confirmed and petitioners are directed to remain on the same bail-bond, which was executed pursuant to order dated 24-08-2016 passed by this Court.

(Rakesh Kumar, J.)

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