

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6917 of 2016

Arising Out of PS.Case No. -122 Year- 2014 Thana -SHASTRINAGAR District- PATNA

1. Md. Sarfuddin S/o - Md. Israil Resident of Village - Babhnouli, P.S. - Mairwa, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhakar Singh

For the Opposite Party/s : Mr. Ajay Kumar No.1(App)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 14-03-2016 Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Shastrinagar Police Station Case No. 122 of 2014, disclosing offences under Section 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

Learned Counsel appearing on behalf of the petitioner submits that on the basis of allegation as contained in the First Information Report, no offence under Section 138 of the Negotiable Instrument Act is made out inasmuch as there is no allegation that the cheques issued by the petitioner stood dishonoured because of



insufficiency of funds. He further submits that prior to lodging of the First Information Report, no notice, as mandated under Section 138 of the Negotiable Instrument Act, was served on the petitioner. According to him, the informant is engaged in making forged documents, like Passports etc., for which he had been in custody and the present First Information Report has been maliciously got registered against the petitioner.

I find substance in the submissions advanced on behalf of the petitioner that no notice was served upon him prior to the lodging of the First Information Report, which is mandatory under Section 138 of the Negotiable Instrument Act.

Considering the above submission, this application is allowed.

Let the petitioner, Md. Sarfuddin, in the event of his arrest or surrender before the Court below within 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 Md. Saleem, Judicial Magistrate, 1st Class, Patna, in connection with Shastrinagar Police Station Case No. 122 of 2014, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.



Prabhakar Anand/-

(Chakradhari Sharan Singh, J.)

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