

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13376 of 2016

Arising Out of PS.Case No. -603 Year- 2015 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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Navin Kumar Gupta S/o Late Chandra Kishore Prasad, resident of Mohalla
- Gola Road, Magardahi, Ward No. 20, P.S. Samastipur (Town), Proprietor
of Navin Rest House, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Vinay Kumar S/o Virhnu Dayal Prasad, resident of Mohalla - Magardahi
Ghat Road, Ward No. 18, P.S. - Samastipur, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sujit Kumar Singh, Advocate

For the Opposite Party No.1: Mrs. Indu Kumari Srivastava , APP

For the Opposite Party No.2 : Mr.Abhay Shanker Singh, Advocate
Mr.Amit Kr.Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 05-04-2016

Heard the parties.

The petitioner apprehends his arrest in a criminal prosecution, based on a complaint petition, for offences under Section 406 of the Indian Penal Code as also under Section 138 of the N.I.Act.

As per prosecution case, the petitioner had issued three cheques of Rs.25,000/-, Rs.3,75,000/- and 2,00,000/- in favour of the complainant, out of which the cheque of Rs.25,000/- only was credited to the account of the complainant. So far remaining two cheques of Rs.3,75,000/- and Rs.2,00,000/- are concerned, the amounts of those cheques were not credited to the account of the complainant on the instruction given by the petitioner to the Bank.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is prepared to pay the

aforesaid amount of Rs.5,75,000/- within a period of time fixed by this Court, provided it is not construed as the admission of the guilt.

The learned counsel appearing on behalf of the complainant, though has opposed the prayer for grant of anticipatory bail, but submits that if the payment is made to the complainant, then the petitioner may be granted anticipatory bail, but he will have to face the criminal trial

Taking into consideration the aforesaid submissions and also taking into consideration the nature of allegation as disclosed in the complaint petition, this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of anticipatory bail, provided the petitioner deposits Rs.2,00,000/- (Rupees two lacs) through Bank draft in the court below within a period of four weeks from today and remaining amount of Rs.3,75,000/- (Rupees three lacs and seventy five thousand) shall be deposited by him within a further period of three months from the date of payment of first instalment of Rs.2,00,000/-

It is clarified that if the petitioner fails to deposit Rs.3,75,000/- within the aforesaid period of three months, then it shall be construed that the anticipatory bail granted to the petitioner by the present order stood cancelled on account of non-compliance of the Court's order.

The amount so deposited shall be paid to the complainant, but it shall not be construed as admission of the guilt by the petitioner.

In the event of his arrest or surrender within a period of four weeks from today in the court below and on deposit of first instalment of Rs.2,00,000/- only, the above named petitioner

shall be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of Sri R.K.Raina, Judicial Magistrate, Ist Class, Samastipur in connection with C.R.Case No. 603 of 2015, subject to conditions laid down under Section 438 (2) of the Cr.P.C. and subject to the further conditions that :

(A) one of the bailors must be government servant or close family member of the petitioner who will file an affidavit in the court below showing their relationship with the petitioner,

(B) if the petitioner is found involved in same and similar nature of cases in future, then in that case, the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned, and

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every dates, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bonds of the petitioner.

(Birendra Prasad Verma, J)

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