

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22157 of 2016

Arising Out of PS.Case No. -217 Year- 2016 Thana -AHIAPUR District- MUZAFFARPUR

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Ajit Kunwar @ Ajeet Kumar, Son of Late Sachidanand Kunwar, Resident of Mohalla-Bhagwanpur, N.H. 28, Bibi Ganj, P.S. Sadar, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Umesh Kumar Singh @ Dharmendra Singh, S/o Kamal Singh, R/o village-Kothua Dadal, P.S. Ahiyapur, District-Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate
For the Opposite Party/s : Mr. B.K Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 14-09-2016 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Ahiyapur P.S. Case No. 217 of 2016, disclosing offences under Sections 406 and 420 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act.

With an allegation that the petitioner had issued a cheque worth Rs. 8,00,000/- in favour of Alok Kumar, which stood dishonoured on presentation before the Bank, Ahiyapur P.S. Case No. 217 of 2016 was registered levelling offences punishable under Sections 406 and 420 of the Indian Penal Code and Section

138 of the Negotiable Instruments Act.

Learned counsel for the petitioner has submitted that the person, in whose favour, the cheque was issued, has not instituted the First Information Report. He has, secondly, submitted that no offence under Section 138 of the Negotiable Instruments Act is made out inasmuch as no statutory notice as contemplated under the N.I. Act was ever issued by the person, in whose favour, the said cheque was issued by the petitioner. He has, thirdly, submitted that in the said background, the present informant does not have locus standi either to lodge the First Information Report or oppose this application for bail.

Learned counsel appearing on behalf of the informant, on the other hand, has submitted that he had acted on behalf of said Alok Kumar. He has also submitted that though offence under Section 138 of the Negotiable Instruments Act cannot be said to be made out in the absence of statutory notice, having been issued to the petitioner, an offence under Section 420 of the Indian Penal Code, is certainly made out.

Considering the submission that no offence under Section 138 of the Negotiable Instruments Act is made out nor on the basis of allegation made in the First Information Report, offence under Section 406 of the Indian Penal Code can be said to

be made out, this application is allowed.

Let the petitioner, above-named, in the event of his arrest or surrender before the court below within six weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur in connection with Ahiyapur P.S. Case No. 217 of 2016, subject to the conditions as 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 bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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