

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38992 of 2016

Arising Out of PS.Case No. -137 Year- 2015 Thana -BAKHTIYARPUR District- PATNA

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1. Lagandeo Sao @ Lagan Dev Son of Lakhan Saw.
 2. Reena Devi, Wife of Lagandeo Sao.
 Both resident of Village Ghangh Dih, P.S.- Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Bipin Kumar son of Sri Ramchandra Sao resident of Village-
 Rupas, P.S. Athmalgola, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha
 For the Opposite Party/s : Mr. Shailendra Kumar -1

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

05/ 08.12.2016 Heard learned counsel for the petitioners as well as
 learned Addl. Public Prosecutor for the State and also heard
 learned counsel for the informant.

Petitioners apprehend their arrest in connection with
 a case registered under section 406 of the Indian Penal Code.

The accusation against petitioners is that they took Rs
 06/- lakhs from the informant and gave two blank cheques.
 Subsequently, amount was filled in the aforesaid cheques by
 petitioner no.1 but when the aforesaid cheques were presented
 before the concerned bank, the same got dishonoured.

Submission on behalf of the petitioners is that
 petitioners and the informant were doing business together and
 they had partnership firm but the aforesaid firm suffered loss



and thereafter, the informant brought his false case against the petitioners. It is further submitted that, as a matter of fact, much prior to filing of the present case, petitioner no.1 had filed insolvency case in the State of Gujrat. It is further submitted that even if the prosecution story assumed to be true, then also, no case under section 406 of the Indian Penal Code is made out and, at best, it is case of breach of contract for which informant may take legal recourse in civil court.

Although learned counsel appearing for the informant opposed the prayer but considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioners, in the event of arrest/ surrender within six weeks from the date of receipt of this order to the concerned court, be released on bail on furnishing bail bonds of Rs 10,000/- each with two sureties of the like amount each to the satisfaction of the Addl. Chief Judicial Magistrate, Barh, Patna in Bakhtiyarpur P.S. Case no. 137/2015 subject to condition as laid down under section 438(2) of the Cr.P.C.

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(Hemant Kumar Srivastava,J)

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