

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31429 of 2014

Arising Out of PS.Case No. -78 Year- 2013 Thana -RAJIVNAGAR District- PATNA

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Sajjad Hussain Son of Late Sheikh Zakaria resident of Mohalla - Rajiv Nagar,
Road No. 1, Police Station - Rajiv Nagar, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Lakhan Rai Son of Late Gulab Rai resident of village - Bihajadi, P.O. &
Police Station - Sahdei Bujurg, District - Vaishali at Hajipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Mishra Md. Nurul Hoda Mr. Ramadhar Shekhar
For the State	:	Mr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-08-2017

This Cr. Misc. application under Section 482 of the Cr.P.C. has been filed to quash the order dated 19.02.2014 passed by the District Judge Special-14, Patna in Bail Petition no. 16813 of 2014 arising out of Rajiv Nagar P.S. Case no. 78 of 2013.

2. Heard both sides and perused the records.

3. This petitioner is the informant of Rajiv Nagar P.S. Case no. 78 of 2013. The case was registered for the offence under Sections 406 and 420/34 of the Indian Penal Code. The case was investigated and police submitted charge sheet under Section 406, 420 of the I.P.C. and 138 of the N.I. Act.

4. It has been submitted that the learned court below while



granting bail to the O.P. no. 2 has omitted to mention Section 138 of the N.I. Act in the first paragraph of the order dated 19.02.2014. The court below further erred in observing that the petitioner had received Rs. 4 lacs from the complainant. Out of which, he returned only Rs. 1,65,000/-. The court below, on the basis of the said observation, directed that the O.P. no. 2 be enlarged on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of like amount each to the satisfaction of the court below with a condition that before furnishing bail bonds, he will submit a Bank Draft Rs. 2,35,000/- in favour of the informant. The said Bank Draft was ordered to be handed over to the informant (petitioner) on proper verification and identification. The contention of the petitioner is that the informant had invested an amount of Rs. 22 lacs and the accused had executed agreement for such amount whereunder he had assured the informant, for re-payment from the property of the accused. The O.P. no. 2 issued three cheques for the said amount of Rs. 22 lacs, which on presentation in Bank bounced on account of insufficient fund. The case of this petitioner relates to bouncing of cheque of Rs. 22 lacs. The observation of learned court below as regards liability of the O.P. no. 2, has seriously been prejudiced the informant and for this purpose, the present Cr. Misc. application has been filed for quashing the said observation.



5. On perusal of the impugned order, I find that the bail of the O.P. no. 2 was allowed considering the merit of the case. The observation given by the court below as regards the liability of O.P. no. 2 to the extent of Rs. 2,35,000/- and also observation to this effect that the informant has received Rs. 4 lacs, do not prejudice the informant in any way. Besides that, non-mentioning of Section 138 of the N.I. Act in the bail order also does not prejudice the informant. The charges are framed on the basis of materials on record. The claim of this petitioner as regards bouncing of cheque and liability of O.P. no. 2 has to be decided by the trial court on the basis of evidence to be produced by the informant. The observation of learned court below will not come in the way of the informant at the time of the trial.

6. In view of the above discussions, I find that the bail of the O.P. no. 2 was allowed considering the nature of allegation and it does not require any interference. This Cr. Misc. application is dismissed with aforesaid observations.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.08.2017
Transmission Date	08.08.2017

