

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51170 of 2017

Arising Out of PS.Case No. -48 Year- 2017 Thana -DARBHANGA District- DARBHANGA

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1. Ramesha Nand Jha, son of Sri Nunu Lal Jha,
 2. Ayurakshi Devi @ Mayurakshi Devi, wife of Ramesha Nand Jha, both resident of village-Jaynagar, P.S.-Bhargama, District- Araria, at present residing at Professor's Colony, Digghi Pashchim, P.S.-Darbhanga Town, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Santosh Kumar Jha, son of Sri Dev Kant Jha, resident of village-Balha, Post Office-Antaur, Police Station- Bahera, District- Darbhanga, at present posted as Railway Guard, residing at Viddha Sagar Colony, Chhapki, P.S.-Darbhanga Sadar, District-Darbhang.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Md. Imteyaz Ahmad, Advocate
Mr. Shashank Shekhar, Advocate

For the Opposite Party No.1: Smt. Sharda Kumari, APP

For the Opposite Party No.2: Mr. Pankaj Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 15-11-2017

Heard learned counsel for the petitioners and learned

APP for the State as well as counsel for the Opposite Party No.2.

Petitioners apprehend their arrest in **Darbhang**
Town P.S. Case No.48 of 2017 instituted for the offence under
Section(s) 420, 406, 120-B Indian Penal Code.

There is allegation in the written report that the
Informant gave rupees seventeen lacs to the petitioners through
Cheque and RTGS on different dates as described, in detail, in
the written report. The petitioners neither executed sale deed nor
returned the money. It is further alleged petitioner No.1 gave



cheque of rupees six lacs to the Informant, but when that cheque was deposited for clearance, payment was stopped by the petitioner No.1. Thereafter, two cheques were issued by petitioner No.2 in favour of the Informant for Rs.2,88,000/- and Rs.2,70,000/-. When both cheques were produced by the Informant in bank then one cheque amounting to Rs.2,88,000/- was not encashed as the petitioner No.2 had given instructions to the Bank to stop payment and another cheque amounting to Rs.2,70,000/- was bounced because of insufficient fund.

In the instant case, on 09.11.2017, counsel for the petitioners sought time to seek instructions from his client whether they would return back the money to the Informant in installment. But, till date, no any statement was made on behalf of the petitioner by filing Supplementary Affidavit or by making specific statement that they would return the amount, in question.

In such circumstances, this application is disposed off with direction to petitioners to surrender before the Court below i.e. **Chief Judicial Magistrate, Darbhanga**, within a period of six weeks from today in connection with **Darbhangra Town P.S. Case No.48 of 2017**, along with valid receipt showing payment of rupees seven lac to the Informant by Demand Draft and in that event the Court below will release the petitioners on



provisional anticipatory bail on furnishing bail bond of `10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of court below itself subject to the conditions as laid down under Section 438(2) Cr. P. C. with further conditions: (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

Thereafter the petitioners will make payment of amount of remaining ten lacs in two equal installments, through Demand Draft by 15th of every month. After payment of entire amount i.e. rupees seventeen lacs, provisional bail of the petitioners will be confirmed by the Court below itself.

It is made clear that in the event the petitioners does not surrender in the Court below along with receipt, as ordered above, or the petitioners make default in making payment of single installment, it will be open to the Court below to pass



appropriate order in accordance with law including cancellation of provisional bail of the petitioners without taking into consideration the observations made above by this Court.

Payment made by the petitioner to the Informant will be subject to final decision in the case.

This application is, accordingly, disposed off.

(Sanjay Priya, J)

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