

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28928 of 2017

Arising Out of PS.Case No. -814 Year- 2004 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Md. Shahid, son of late Gulam Nabi, resident of village- Gamhari, P.S.- Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Akhtar Ali (Porop. Baba Poultry and General Medical Store), son of Nasirul Haque, resident of Mohalla- Nagmatia Road, P.S.- Civil Line, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Sri Arun Kumar, APP

Mr. Indra Mohan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 06-09-2017

Heard learned counsel for the petitioner and learned

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

Petitioner apprehends his arrest in Complaint Case No.814 of 2004 instituted for the offence under Section(s) 419, 420 Indian Penal Code and Section 138 of the Negotiable Instrument Act.

It has been submitted that the petitioner had business dealing with the Complainant and as per the allegation of the Complainant, initially, amount of rupees thirty eight thousand was due with the accused with regard to purchase of chicken feed etc.

Learned counsel for the petitioner has further



submitted that on 04.03.2003, he was appointed as *Shiksha Mitra* and thereafter he left the business. He is ready to make payment of rupees thirty eight thousand.

The Complainant has alleged that the petitioner was continuing the business and total rupees ninety one thousand eight hundred became due till 27.02.2004. Thereafter, a legal notice was sent to the accused for making payment and then the accused gave a cheque of rupees ninety one thousand eight hundred of Magadh Gramin Bank, which was presented in the Bank on 12.06.2004 and the same was bounced.

The petitioner, however, admits about rupees thirty eight thousand having due with him which he is ready to pay at the time of surrender.

In such circumstances, the petitioner is directed to surrender before the Chief Judicial Magistrate, Gaya, in connection with Complaint Case No.814 of 2004 within four weeks from today along with the Demand Draft of rupees thirty eight thousand in the name of the Complainant, Akhtar Ali, and in that event, he shall be released on anticipatory bail on furnishing bail bond of `10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial



Magistrate, Gaya, 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) petitioner 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 petitioner and (3) if petitioner tampers 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 petitioner.

The Court below will handover the Demand Draft to the Complainant, Akhtar Ali, after issuing notice to him without any delay.

The payment of aforesaid amount by the petitioner to the Complainant will be subject to final decision of the case.

(Sanjay Priya, J)

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