

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43511 of 2017

Arising Out of PS.Case No. -90 Year- 2016 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Birendra Kumar Sinha S/o Bageshwari Pd. Sinha
2. Alka Sinha W/o Birendra Kumar Sinha, Both R/o Mohalla Shambhawi
Place, Near Kamakhya Mandir, Visnupad Road, Chand Chourah, P.S.
Vishnupad, District- Gaya Petitioners

Versus

1. The State of Bihar.
2. Neel Kanth Kumar, S/o H.N.P. Verma, R/o Visnupad, Near New High
School, P.S.- Visnupad, District- Gaya Opposite Parties

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Appearance :

For the Petitioners : Mr. Deepak Kumar, Adv.
For the State : Mr. Gauri Shankar Gupta, APP 95
For the complainant : Mr. Prakash Chandra Jha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**
ORAL ORDER

3 20-09-2017 Heard the learned counsel for the petitioners, the
learned Additional Public Prosecutor and the learned counsel for
the complainant.

The petitioners apprehend their arrest in Complaint
Case No. 90 of 2016 under Sections 420 of the Indian Penal Code
and 138 of the Negotiable Instrument Act.

The complainant alleged that both the petitioners,
husband and wife, came and persuaded him to lend Rs.13,00,000/-
for development of their business, but, Birendra Kumar Sinha,
petitioner no. 1, returned Rs.4,70,000/- and also issued three
cheques in order to repay the entire amount. When the cheques
were present, the same could not be honoured and for that the
complainant filed this case.

The learned counsel for the petitioners submits that in
fact Birendra Kumar Sinha took money from the complainant and
as security he handed over three cheques to the complainant.
Birendra Kumar Sinha returned the entire amount, but, the
complainant did not return the cheques and took advantage of the
situation filed the complaint case. There is no specific allegation
against petitioner no. 2, Alka Sinha.



On the other hand, the learned counsel for the complainant vehemently opposed the prayer for anticipatory bail and submitted that Birendra Kumar Sinha, petitioner no. 1, had also written hand note accepting the fact that he had taken crores of rupees from many persons. He also acknowledged taking of Rs.13,00,000/- from the complainant out of which he repaid Rs.4,70,000/-, after selling residential house, and for the rest of the amount Birendra Kumar Sinha issued three cheques, which were dishonoured.

Considering the facts that it was Birendra Kumar Sinha, who issued cheques in favour of the complainant and it also transpired that he is in the habit of taking money from different persons, I am not inclined to enlarge petitioner no. 1, Birendra Kumar Sinha, on anticipatory bail.

Accordingly, the prayer for anticipatory bail on behalf of petitioner no. 1 is **rejected**.

So far as case of petitioner no. 2, Alka Sinha, is concerned, there is no specific allegation against her, who happens to be the wife of Birendra Kumar Sinha, she, in the event of her arrest or surrender, within four weeks from the date of receipt of this order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with **Complaint Case No. 90 of 2016** to the satisfaction of the **Additional Chief Judicial Magistrate, XI, Gaya**, or successor Court, subject to the condition laid down under Section 438(2) of the Criminal Procedure Code.

(Prabhat Kumar Jha, J)

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