

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19522 of 2017

Arising Out of PS.Case No. -315 Year- 2014 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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Sunil Kumar Singh @ Sunil Singh, Son of Late Satyendra Singh, Resident of Village- Turki, P.S. Bagaha, District- West Champaran, Presently residing at Mohalla- Jai Prakash Nagar, I.T.I. P.S.- Bettiah, Muffasil, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lallu Rai, Son of Late Narad Rai, Resident of Village- Garabhua, Babu Tola, P.s.- Sirisiya O.P., District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate.

For the Opposite Party/s : Ms. Smt. Meena Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

5 05-09-2017 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Bettiah Muffasil P.S. Case No. 315 of 2014, registered under Sections 406 and 420 of the Indian Penal Code and Section 138 of the N.I. Act.

The allegation of complainant, Lally Rai, is that petitioner met with him introducing himself as the owner of Om Construction Private Limited Company, who used to supply the sand to Gangotari Enterprises, Lal Ria and Tatia Construction Motihari and he required five partners for doing the business to



supply the sand. On 09.05.2012, petitioner approached the informant then petitioner and five others named in the F.I.R. agreed to be the partner in the company of the petitioner and also handed over cash of Rs.15,00,000/- to the petitioner on the agreement that all partners will get equal share in the benefit. After starting the work to supply the sand, payment of Rs.22,00,000/- was made but the petitioner did not pay any payment. On repeated request, the petitioner issued cheques of Rs.3,50,000/- of Indian Bank in his name but the same was dishonoured due to insufficiency of money in the account of the petitioner. While the informant approached to the petitioner but the payment was not made by the petitioner.

Learned counsel for the petitioner submits that while the cheque was issued by the petitioner as detailed in the F.I.R. but without giving legal notice, as required under Section 138 of the Negotiable Instruments Act, the present case has been lodged. As such, the present complaint is not maintainable under Section 138 of the Negotiable Instruments Act.

Having regard to the facts and circumstances of the case, let the above named petitioner be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond



of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Bettiah, West Champaran, in connection with Bettiah Muffasil P.S. Case No. 315 of 2014, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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