IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42861 of 2017

Arising Out of PS.Case No. -2320 Year- 2016 Thana -EAST CHAMPARAN COMPLAINT District- EAST CHAMPARAN (MOTIHARI)

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1. Rajiv Kumar, son of Yadav Lal Prasad @ Kushwaha.
2. Yadav Lal Prasad Kushwaha, son of late Sita Ram Bhagat.

Both residents of village - Hardia, P.S. - Turkauliya, Distt. - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Punjab National Bank through Branch Manager, P.S. - Motihari, Distt. - East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Adv.
For the Bank	:	Mr. Mahesh Narayan Parbat, Sr. Adv.
For the State	:	Mr. Sakir Ahmed, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 19-09-2017 Heard learned counsel for the petitioners, learned senior counsel representing the Bank and learned Additional Public Prosecutor appearing on behalf of the State.

This application, for grant of anticipatory bail, arises out of Complaint Case No. 2320 of 2016, disclosing offences under Sections 420 and 406 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

Petitioner No. 2 had taken certain amount of education loan from Panjab National Bank, Motihari Branch, East Champaran *(in short 'Bank')*. Against the said loan, petitioner No. 2 is said to have issued a cheque, worth Rs. 1,20,000/-, which stood dishonoured.

Learned counsel for the petitioners has submitted that petitioner No. 2 had taken education loan for his son (petitioner No. 1) because of financial constraints. He failed to repay the said loan amount. It is submitted that petitioners are willing to clear the entire loan amount within a reasonable time.

From the complaint petition, it appears that a total sum of Rs. 4,50,331/- has been calculated by the Bank to be payable by the petitioners.

In view of the stand taken on behalf of the petitioners, it is observed that let the entire loan amount be cleared by the petitioners within a period of six (6) months from today. For the said purpose, the Bank will be required to furnish the petitioners the amount payable by them within a period of one (1) week from today, which the petitioners shall collect from the concerned Branch office.

Considering the nature of loan which the petitioners had taken, the Court expects that the Bank will not be too harsh in computing the amount payable by the petitioners and shall grant remissions/concession, within permissible limit at appropriate level. If the petitioners repay the said amount within a period of six (6) months from today, there will be no necessity for the Bank to proceed with the criminal case lodged against the petitioners.

Subject to observations made hereinabove, this application is allowed. Let the petitioners, above named, in the event of their arrest or surrender before the court below within four weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of **learned Chief Judicial Magistrate, Motihari, East Champaran**, in connection with **Complaint Case No. 2320 of 2016**, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioners shall present themselves before the police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

It is made clear that if the petitioners fail to comply with the present order, the State shall be at liberty to approach this Court for cancellation of bail granted to the petitioners by virtue of the present order.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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