

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2396 of 2018

Arising Out of PS.Case No. -2274 Year- 2016 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Shailendra Giri @ Shailendra Kumar Giri, son of Sri Shiv Kumar Giri, C.M.D. Realize Realcon Private Limited, J.M. Complex, Rupaspur, Bailey Road, P.S.- Rupaspur, Town and District- Patna.
 2. Pankaj Kumar, son of Sri Narayan Singh, Realize Realcon Private Limited, J.M. Complex, Rupaspur, Bailey Road, P.S.- Rupaspur, Town and District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shyama Kant Jha, son of Sri Abhay Chandra Jha, aged about 47 years, Editor Lok Prasang, 102, Park View Apartment, Shri Krishnapuri, Post Office Building, Boring Road, Patna- 1, P.S.- S.K. Puri, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Maijorwar, Advocate.

For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 10-04-2018 Heard learned counsel for the petitioners and the

State.

The petitioners apprehend their arrest in **Complaint Case No. 2274(C) of 2016** instituted for the offence under Section 420 of the Indian Penal Code and Section 138 of Negotiable Instrument Act.

It is alleged in the complaint petition that petitioner negotiated with the complainant to publish advertisement of their company for one year from December, 2015 to November 2016 in the Lok Prasang monthly magazine and accordingly, the accused



persons accepted the rate for aforesaid advertisement i.e. a sum of Rs.10,000/- per advertisement per month and payment will be made after every three months. It is further alleged that for three months i.e. December, 2015, January 2016 and February 2016 the petitioners paid the sum of Rs.30,000/- in the account of complainant. It is alleged that from March, April and May 2016 the accused persons gave one cheque bearing Cheque No. 003218 dated 10.05.2016 of ICICI Bank, Raja Bazar Branch, Patna, of Rs.30,000/-, but on presentation in Bank, the said cheque bounced due to insufficient fund on 13th of May, 2016. Thereafter, legal notice has been sent but neither the amount was paid nor any reply was given by the petitioners.

Learned counsel for the petitioners has submitted that vide Annexure-3, he has made payment of Rs.30,000/- to the complainant. The complainant does not deny in the complaint petition about receipt of Rs.30,000/-. He has further submitted that vide Annexure-4, the amount of Rs.30,000/- has been transferred through NEFT 000009351801/Lok Prasang. Therefore, the petitioner has already paid Rs.60,000/- to the complainant and now there stands no liability against the petitioner. These things are required to be looked into in the trial but *prima facie* it appears that petitioner has already made payment of Rs.60,000/- to the



complainant.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioners is allowed. In the event of surrender/arrest of the petitioners, named above, within six weeks from today, in connection with **Complaint Case No. 2274(C) of 2016**, they shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of **Sri Praveen Kumar Singh, learned Additional Chief Judicial Magistrate-cum-Special Judicial Magistrate, CBI, Patna**, 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 their absence on two consecutive dates without proper and reasonable reason will be liable to cancel their bail bond 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.

(Sanjay Priya, J)

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