

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52550 of 2018

Arising Out of PS.Case No. -261 Year- 2017 Thana -SUGAULI District- EASTCHAMPARAN
(MOTIHARI)

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Ravinder Kumar Pandey, S/o Late Krishna Deo Pandey, resident of Village + P.O.- Bahuarwa, P.S.- Majhauriya, District- West Champaran. At present Address- Mohalla- Nagar Panchayat Sugauli, Ward No. 6, Nayak Tota, P.S.- Sugauli, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rajesh Pandey, S/o Shri Janardan Pandey, R/o Village- Kaithbaliya, P.S.- Sugauli, District- East Champaran. At present address- Mohalla- Nagar Panchayat Sugauli, Ward No. 6, Nayak Tola, P.S.- Sugauli, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Opposite Party/s : Mr. Chandra Bhushan Prasad

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 12-09-2018 The present petition has been filed by the informant of Sugauli P.S. Case No. 261 of 2017 for cancelling the privilege of anticipatory bail granted to the accused, namely, Rajesh Pandey, by this Court vide an order dated 10.01.2018 passed in Cr. Misc. No. 54265 of 2017.

The learned counsel for the petitioner herein has contended that all the cheques issued by the accused Rajesh Pandey have bounced, hence, the said accused person should be punished by putting him behind the bars and making him cough up the amount of the cheques, which have bounced.



I have heard the learned counsel for the petitioner and I find that the informant of the connected criminal case i.e. the petitioner herein is trying to give a colour of criminal offence to a purely civil dispute to wreck vengeance against the accused persons and at best the petitioner herein would have filed a case under Section 138 of the N.I. Act, but it appears that on account of him defaulted in adhering to the mandatory statutory requirements provided for the purposes of filing such a case under the N.I. Act, the petitioner has taken recourse to a criminal proceeding, fully well aware that the only recourse left to him is filing of a civil suit/ recovery suit before a competent court of civil jurisdiction, which would be not only time taking but would also require deposit of court fees, hence, having missed an opportunity to file a case under section 138 of the N.I. Act, the petitioner herein has thought of availing a short cut by taking recourse to criminal proceedings, which is nothing but a sheer abuse of the process of the court.

Moreover, it is a well settled law, as has been laid down by the Hon'ble Apex Court in a judgment reported in (2016)1 SCC 152 [**Bhadresh Bipinbhai Sheth Vs. The State of Gujrat & Anr.**] that once, in pursuance of the order of the Court of Sessions or the High Court, the accused is released on anticipatory bail by the trial court, then it would be unreasonable



to compel the accused to surrender before the trial court and again apply for regular bail.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any reason to entertain the present petition, filed for cancellation of anticipatory bail granted by this Court vide order dated 10.01.2018, hence the present petition is dismissed.

(Mohit Kumar Shah, J)

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