

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45140 of 2018

Arising Out of PS.Case No. -383 Year- 2017 Thana -BUDDHACOLONY District- PATNA

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Nirbhay Singh S/o Yogendra Singh @ Jogendra Singh, R/o House No.-463,
Sector-39, Near Medanta Hospital Gurugram (Gurgaon), P.S.- Sadar,
District- Gurugarm, Haryana. Petitioner.

Versus

The State of Bihar Opposite Party.

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Appearance :

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

For the Opposite Party/s : Mr. Satya Nand Shukla, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**
ORAL ORDER

04 06-10-2018 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in Budha Colony P.S. Case
No. 383 of 2017 (G.R. No.7135/17) registered under Section 406,
420, 504,506, 120-B/34 of the Indian Penal Code and under
Section 138 of N.I. Act.

Petitioner is said to have taken Rs.23,00,000/- from
the informant for supply of Exuder Online machine and did not
supply the aforesaid machine rather on demand handed over the
cheque which was presented before the Bank but it was
dishonoured due to insufficient fund in the account of the
petitioner.

It is submitted by learned counsel for the petitioner
that no such occurrence as alleged ever took place. He has no



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concern with the aforesaid occurrence. There is no such agreement of supply of the aforesaid machine by the petitioner to the informant and without any agreement and mere on assurance of the petitioner the aforesaid huge amount cannot be provided to a person, which appears to be unpragmatic. It is further submitted that earlier in a case against the petitioner regarding bouncing of the cheque the informant was the witness and as the informant was witness in the aforesaid case earlier to the case under hand, knowing his antecedent, how he has accorded the aforesaid huge amount to the petitioner relying on his assurance without any agreement which also creates serious doubt about the prosecution case. It is further submitted that as a matter of fact the cheque book of the petitioner was lost and the same has been misused by the informant against the petitioner. It is also submitted that simply it is a case of bouncing of the cheque and for which the complaint petition ought to have been filed by the informant instead of filing the F.I.R. and F.I.R. in the case of bouncing of cheque is not maintainable and it is against the provision of law. The petitioner has been languishing in custody since 23.12.2017.

In the facts and circumstances of the case, the above named petitioner is directed to be enlarged on bail on



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furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Judge-XVI-cum-ACJM, Patna in connection with Budha Colony P.S. Case No.383 of 2017 (G.R. No.7135/17).

(Prakash Chandra Jaiswal, J)

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