

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14225 of 2018

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Manish Kumar Gupta S/o Shri Mahabir Prasad Gupta, R/o Village-
Pachvinda, Post Office + P.S.- Tarainya, District- Chhapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Chandra Prasad, S/o Late Rajkumar Prasad, R/o Mohalla –
Hajiganj More Arora House, P.S. Chowk City, District – Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar

For the Opposite Party/s : Mr. Sri Shyam Kumar Singh

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

02/ 16-05-2018

The present application has been filed for
modification of the order dated 11.09.2012 passed in Cr. Misc.
No. 16268 of 2012 for extending the period of provisional bail.

The petitioner apprehending arrest in a
complaint case, wherein processes were directed to be issued after
cognizance being taken for the offences punishable under Sections
420, 120B of the Indian Penal Code and Section 138 of N.I. Act,
preferred Cr. Misc. No. 16258 of 2012 with a prayer for
anticipatory bail.

The accusation against the petitioner was that
he realized Rs.9,40,000/- from the complainant for providing
employment to complainant's son and on failure to do so, he
issued a cheque, which got dishonoured.



On submission that the petitioner will return Rs.1,00,000/- within a period of one month and the rest amount in installment of Rs.10,000/- per month from October, 2012, the petitioner was granted provisional anticipatory bail. The provisional bail was to be confirmed by the learned Court below on payment of the entire amount by the petitioner when the complainant will file proper application for withdrawal of the complaint petition.

It is submitted by learned counsel for the petitioner that the petitioner never executed the bail bond in pursuance to the provisional bail granted to him. However, the petitioner has paid the entire amount of Rs.9,40,000/- to the complainant and a joint compromise petition has been filed on 18.01.2018 itself before the learned Court below. A statement to that effect has been made in paragraph 5 of the petition, which reads as follows:-

“That it is relevant to submit that the petitioner has already paid the entire claim amount Rs. 9.40 lacs to the complainant on 18.01.2018 and thereafter the complainant has compromised with the petitioner, in this respect a joint compromise petition dated 18.01.2018 has been filed before the court below to the effect that the complainant now



does not want to proceed further in the complaint case.”

This Court vide order dated 21.03.2018 issued notice to the complainant-opposite party no. 2. The office note dated 15.05.2018 suggests that the complainant has personally received the registered cover of notice, but none is appearing on behalf of opposite no. 2.

Since the present modification application has been registered on 09.03.2018 for modification of order dated 11.09.2012 passed in Cr. Misc. No. 16268 of 2012, this Court is not inclined to interfere. However, taking into consideration, the above statement of the petitioner that the petitioner has already returned the entire amount, it is a case for consideration of prayer for regular bail by the learned Court below, if the petitioner surrenders before the learned Court below within a period of six weeks from today in connection with Complaint Case No. 170 of 2011, pending in the Court of learned Sub-Judge-II –cum- A.C.J.M., Patna City, Patna on verification of the fact that the joint compromise has been filed before the learned Court below.

Accordingly, this application is disposed of.

(Dinesh Kumar Singh, J)

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