

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56340 of 2017

Arising Out of PS.Case No. -160 Year- 2016 Thana -BETTIAH CITY District-
WESTCHAMPARAN(BETTIAH)

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1. Subhash Kumar Ishwar, son of Sri Ramakant Ishwar, resident of House
No.10, Village- Bharoul, P.S.- Bechwara, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Murlidhar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6/ 07-03-2018

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner apprehends his arrest in **Bettiah Nagar**
P.S. Case No.160 of 2016 instituted for the offence under
Section(s) 406, 420 Indian Penal Code.

It is alleged in the written report dated 21.03.2016,
filed by Medical Officer, Primary Health Centre, Nautan, that in
the light of Order No.246 dated 22.03.2013 of District Health
Society, Bettiah, West Champaran, he had given bank draft of
Rs.6,66,667/- to the Macmillan Life Science Pvt. Ltd., Chanakya
Plaza, Near Old SBI, Kankerbagh, Patna, through its Proprietor
(petitioner).

The petitioner has only supplied medicine of
Rs.2,42,000/- and rest amount i.e. Rs.4,58,000/- has not been



refunded by the petitioner even after request made by the informant vide Memo No.DHS/627, dated 14.08.2014.

Counsel for the petitioner has taken plea in para 14, 15, 16 of the petition that medicines were ready for delivery in terms of the agreement, which was to be carried by the informant himself, but representative of the informant took delivery of only 53 cartons of medicines saying that he has no space in the vehicle. Thereafter, he did not come to take remaining medicines and those medicines, ultimately, expired.

Counter Affidavit has been filed by the State, wherein, statement of the aforesaid Clerk, namely, Ramashish Baitha has been enclosed as Annexure-A, wherein, he has stated that when he visited the shop of the petitioner, he supplied only 52 cartons ORS.

Counsel for the petitioner has submitted that he is ready to refund the balance amount in six equal monthly installments. He will deposit the amount in installment in District Treasury, Bettiah, in the name of Civil Surgeon-cum-Chief Medical Officer-cum-Member Secretary, District Health Society, West Champaran, Bettiah.

In such circumstances, petitioner is directed to surrender before the Court below i.e. **Chief Judicial Magistrate,**



Bettiah, West Champaran, in connection with **Bettiah Nagar P.S. Case No.160 of 2016** within a period of four weeks from the date of receipt of copy of this order with valid receipt showing payment of 1st installment in Treasury in the name mentioned above and in that event the Court below will release the petitioner on provisional anticipatory bail for a period of six months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to its own satisfaction 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) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and his absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner tampers 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 petitioner.

Thereafter, petitioner will deposit the remaining amount within the aforesaid period.

After making payment of the entire amount, provisional anticipatory bail of the petitioner will be confirmed.



Aforesaid payment made by the petitioner will be
subject to final decision of the case.

(Sanjay Priya, J)

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