

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.67288 of 2018

Arising Out of PS. Case No.-4491 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sangeeta Kumari wife of Subodh Kumar
2. Subodh Kumar @ Subodh Kumar @ Ram son of Lal Babu Rai
Both are Resident of Village-House No.4 A/25 Jagdamba
Path, Opposite Gitanjali Pathology, Vivekanand Marg, Boring
Road, P.S.- S.K.Puri, Distt.-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shivam Cement Traders through its proprietor Chandan Kumar son of Late
Hiralal Gupta, Boring Road, P.S. -S.K. Puri, Distt.-Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the Opposite Party/s : Mr. Md. Sufiyan, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 18-12-2018 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

The petitioners seek pre-arrest bail in connection with
Complaint Case No.4491-C of 2017 in which cognizance under
Section 406 of the Indian Penal Code and Section 138 of the
Negotiable Instruments Act has been taken.

It is submitted by the learned counsel for the
petitioners that in view of the allegations made in the complaint,
at best, ingredients of the offence punishable under Section 138
of the Negotiable Instruments Act would be attracted, which is
bailable in nature. It is further contended that the order taking
cognizance of the offence punishable under Section 406 of the



Indian Penal Code by the Court of Magistrate is bad in law and that is the only non-bailable offence for which the petitioner is being prosecuted.

Per contra, learned counsel for the complainant submitted that the petitioners had issued a cheque of an amount of rupees two lacs fifty thousand which was dishonoured on presentation before the bank. According to him, the learned Magistrate had rightly taken cognizance of the offence punishable under Section 406 of the Indian Penal Code.

Be that as it may, considering the nature of allegation, in the event of arrest or surrender before the court below within six weeks from today, the petitioners are directed to be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of A.C.J.M., Patna-cum-Special Judge, C.B.I.-1 in connection with Complaint Case No.4491-C of 2017 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Md. S/-

(Ashwani Kumar Singh, J)

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