

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8916 of 2018

Arising Out of PS.Case No. -2352 Year- 2017 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Manoj Kumar, s/o late Ram Nagina Ram,
 2. Smt. Kusum Lata, w/o Manoj Kumar,
 3. Ashok Kumar, s/o late Ram Nagina Ram, all R/o Mohalla- Patel Nagar,
Ramrati Bhawan, P.O.+P.S.- Shastri Nagar, Near Dr. B. Bhattacharya,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Kumar Singh

For the Opposite Party/s : Mr. Narendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3/ 22-03-2018

Heard learned counsel for the petitioners and learned

APP for the State.

Petitioners apprehend their arrest in **Complaint Case No.2352-C of 2017** instituted for the offence under Section(s) 406 Indian Penal Code and Section 138 of the Negotiable Instrument Act.

It is alleged in the Complaint Petition that total rupees six lac was given by the Complainant to the petitioner no.1 as loan on 28.02.2017 for which a receipt was given by the petitioner no.1 over which other persons namely, Shubham Sharma, Manish Kumar and Kundan Kumar have also made signature as witnesses. The accused persons promised to return the amount by 10.04.2017, but they did not return the money.



The Complainant put pressure upon the accused persons, then petitioner no.1 gave three cheques of Rs.1,50,000/- each. When the Complainant deposited the cheques in the account, the same bounced with endorsement “Stop Payment”.

Counsel for the Complainant has submitted that he has received Rs.1,00,000/- through cheque and Rs.50,000/- as cash for which receipt has been filed by the petitioners kept at page 38 and 39 of the brief. However, amount of Rs.4,50,0000/-is still payable by the petitioners for which petitioner no.1 had issued cheques which got bounced.

Counsel for petitioners submits that petitioner no.1 will make payment of Rs.4,50,000/- to the Complainant-Opposite Party No.2 within a period of six months.

In such circumstances, the petitioner no.1 is directed to make payment of Rs.4,50,000/- within a period of next six months.

The petitioner no.1, Manoj Kumar, is directed to surrender before the Court below i.e. **Sub Judge XIV-cum-ACJM, Patna**, in connection **Complaint Case No.2352-C of 2017** along with Affidavit that he will make payment of Rs.4,50,000/- to the Complainant-Opposite Party No.2 within a period of six months from the date of his release on provisional bail through Demand Draft and, in that event, the Court below



will release the petitioner no.1 on provisional anticipatory bail for a period of six months on furnishing bail bond of Rs.10,000/- (ten thousand) 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 their absence on two consecutive dates without proper and reasonable reason will be liable to cancel their bail bonds 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.

Provisional bail of the petitioner no.1, Manoj Kumar, will be confirmed after submitting valid proof including Xerox copy of the Demand Draft that he has made payment of Rs.4,50,000/- to the Complainant by Demand Draft.

It is made clear that in the event petitioner no.1 does not make payment of Rs.4,50,000/- to the Complainant within a period of six months, his provisional bail will be liable to be cancelled.

So far as petitioner nos.2 and 3 are concerned, there is no specific allegation against them.

In the facts and circumstances of the case, prayer of



the petitioner nos.2 and 3 for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner nos.2 and 3, named above, within six weeks from today in connection with **Complaint Case No.2352-C of 2017**, they shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the **Sub Judge XIV-cum-ACJM, Patna**, 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) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and their absence on two consecutive dates without proper and reasonable reason will be liable to cancel their bail bonds and (3) if petitioners tamper 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 petitioners.

JA/-

(Sanjay Priya, J)

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