

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10755 of 2018

Arising Out of PS.Case No. -543 Year- 2017 Thana -BAGHA District- WEST
CHAMPARAN (BETTIAH)

=====

Hirdyanand Dubey, S/o Late Rama Kant Dubey, R/o Village-
Tiwari Tola, Ward No. 24, P.S.- Bagaha, District- West
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pradeep Kumar Pathak, S/o Rachandra Pathak, R/o
Village- Makkauli, Ward No. 2, P.S.- Bagaha (Pathkhauli)
O.P., District- West Champaran.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s :Mr. Rajnish Ranjan, Adv.

For the Opposite Party/s :Mr. Indu Kri. Srivastava, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 25-04-2018 The petitioner/informant seeks cancellation of
anticipatory bail of opposite party No. 2 which was granted to
him by order dated 14.11.2017, passed by the learned 2nd
Addl. Sessions Judge, Bagaha, West Champaran in A.B.P. No.
354(C) of 2017/C.I.S. No. 1122 of 2017, in connection with
Bagaha P.S. Case No. 543 of 2017, which was instituted for
the offences punishable under Sections 420 and 406 of the
Indian Penal Code.



The petitioner/informant is said to have paid Rs. 24,00,000/- to the opposite party No. 2 for erection of mobile tower, which work was not completed. The opposite party No. 2 is alleged to have issued cheques for returning the aforesaid amount, but such cheques bounced.

From the tenor of the order impugned, it appears that the Court below was swayed by the fact that the period during which the money is said to have been paid by the petitioner/informant was the time when currency notes were demonetized. There is no evidence of payment of any money. With respect to the issuance of cheques, the Court below took into account the submission of the opposite party No. 2 that she was made to forcibly sign on those cheques and same was snatched from him.

Be that as it may, the offence primarily relates to dishonour of cheques for which only a complaint could have been filed. The offences under Sections 420 of 406 of the Indian Penal Code are basically because of non-encashment of the cheques issued by the opposite party No. 2 which entails the prosecution under the Negotiable Instruments Act. Even if there was an intention from the beginning to cheat the petitioner/informant, there is no reason why anticipatory bail be not given to the opposite party No. 2.

Considering the aforesaid facts and the reasons



assigned by the learned Court below, this court is not inclined to interfere with the order granting anticipatory bail to the opposite party No. 2.

This petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

U		T	
---	--	---	--

