

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45949 of 2018

Arising Out of PS. Case No.-3258 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

Subodh Sharma, Son of Sri Krishna Sharma, Resident of Village- Rampur Bara, P.O. Ali Nagar, P.S.- Kako, District- Jehanabad, Proprietor of M/S Mahalaxmi Sweet & Chat Corner, Mithapur Bus Stand, P.S. Jakkanpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Mr. Vindhyachal Tiwary, Son of Sri Radhey Shyam Tiwari, Resident of Flat No. 101, Sidhi Vinayak Apartment, Opposite Kali Mandir, Hanuman Nagar, P.S. Patrakar Nagar, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Sri Panchanand Pandit, APP-115
For the Informant	:	Mr. Dinesh Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 04-12-2018 Heard learned counsel for the petitioner as well as
learned APP for the State and learned counsel for the informant.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406, 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

Allegation is that the complainant had advanced friendly loan to the petitioner on different occasions on the promise of the petitioner to refund the same. One refund cheque issued by the petitioner in favour of the complainant was stopped payment, after few days of the issuance of the same on



the pretext that the said cheque along with few other strayed cheques from the cheque book got missing.

Submission of learned counsel for the petitioner is that the law is well settled that each and every non-refund of the loan amount does not constitute the ingredient of dishonest intention. Several reasons may be for non-payment of the money. Hence, no criminal liability is made out against the petitioner.

On the other hand, learned counsel for the informant submits that once the refund cheque was issued by the petitioner, there was no reason to get it stopped by the Bank, which shows the dishonest intention of the petitioner. Moreover, information which was given to the Bank regarding missing of the cheques, a copy at page No.29 would reveal that the cheque book of continuity did not miss, rather random cheques of different serial numbers is said to be missing.

Considering the entire facts of this case, this matter may give rise to a civil liability. However, for the purpose of consideration of this prayer for anticipatory bail, ingredients of criminal offences are not complied. Hence, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of



receipt of the order be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Complaint Case No.3258 of 2017, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the petitioner shall fully co-operate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

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