

IN THE HIGH COURT OF JUDICATURE AT PATNA**Criminal Miscellaneous No.41667 of 2018**

Arising Out of PS.Case No. -858 Year- 2017 Thana -BHAGALPUR KOTWALI District-
BHAGALPUR

- =====
1. Minakshi Mishra, Wife of Deepak Kumar Jha,
 2. Deepak Kumar Jha @ Deepak Jha, Son of Sri Bashishtha Narayan Jha.
 3. Shalini Priya, Daughter of Sri Bhushan, All residents of Shri Ram Bhawanand Complex, 4th Floor, Room no. 407, Police Line Road, P.S. Kotwali (Tilkamanjhi), District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shahab Khalil, Advocate
Mr. Saba Ashfaque, Advocate
For the Opposite Party/s : Mr. Anand Kishore, APP
For the informant : Mr. Ashutosh Kumar, Advocate
Mr. Rajesh Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 17-09-2018

Heard learned counsel for the appellant, learned APP

as well as learned counsel for the informant.

Informant was contacted by petitioner no.1 on behalf of N.I.S Corporation Private Limited and gave assurance of getting her daughter admitted in reputed Medical College. In due course, they visited the office where met with all the petitioners, who firstly realized Rs. 25,000/- as registration fee, and further took cheque of Rs. 5,00,000/-, cash appertaining to Rs. 3,00,000/-. Even then, her daughter was not admitted whereupon they demanded the amount which they have already paid. On denial, case has been instituted.

Learned counsel for the petitioners submits that petitioners are ready to deposit the amount. It has further been



submitted that the aforesaid cheque has not been encashed and so, they are ready to return the same. In likewise manner, it has also been submitted that cash appertaining to Rs. 25,000/- is going to be deposited in Civil Court Nezarat.

In such kind of financial dispute, if the amount is returned back, then in that circumstance, petitioner will be entitled to be released on bail as has been held by the Apex Court in *(2015) 2 SCC 313, (Rakesh Baban Borhade v. State of Maharashtra)*.

That being so, on return of cheque in question as well as deposit of 3,25,000/- in Civil Court Nezarat, petitioners, namely, 1. Minakshi Mishra, 2. Deepak Kumar Jha @ Deepak Jha and 3. Shalini Priya, in the event of their arrest/surrender within four weeks, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Bhagalpur in Kotwali (Tilkamanjhi) PS Case No. 8582017 as laid down under Section 438(2) CrPC. Deposit of amount would not be considered as an admission.

(Aditya Kumar Trivedi, J)

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