

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1684 of 2018

Arising Out of PS.Case No. -182 Year- 2017 Thana -MADANPURA District-
AURANGABAD

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Ajay Singh, S/o Late Kulwansh Singh, R/o Village- Ghosta,
P.S.- Madanpur, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Pawan Kumar Sharma, S/o Talkeshwar Sharma, R/o
Village- Gulab Bigha, P.S.- Rafiganj, District- Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :Mr. Ramakant Sharma, Sr. Adv.

For the Opposite Party/s: Mr. Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 25-04-2018 A supplementary affidavit has been filed on
behalf of the petitioner in Court. Let it be taken on record.

The petitioner/informant seeks cancellation of
bail of opposite party No. 2 which was granted to him by
order dated 25.09.2017 in connection with Madanpur P.S.
Case No. 182 of 2017 by the learned Chief Judicial
Magistrate, Aurangabad.

A case *vide* Madanpur P.S. Case No. Case No.
182 of 2017, referred to above, was lodged on 07.08.2017



against the opposite party No. 2 for the offences under Sections 420, 467 and 468 of the Indian Penal Code (in short the **I.P.C.**).

The substance of the accusation in the First Information Report is that there was a joint venture existing between the parties with respect to running of a brick kiln and the profits which were forthcoming were all pocketed by the opposite party No. 2. Later, on the insistence of the petitioner/informant, post-dated cheques of Punjab National Bank was given by the opposite party No. 2, but those cheques were dishonoured. Hence the First Information Report.

Learned Senior Advocate appearing on behalf of the petitioner has submitted that during the pendency of the anticipatory bail petition, which was filed by the opposite party No. 2 before the learned Sessions Court, the opposite party No. 2 surreptitiously surrendered before the learned Chief Judicial Magistrate, Aurangabad and sought bail, which was granted to him.

From the perusal of the order passed by the learned Chief Judicial Magistrate, Aurangabad, it appears that the Court below was convinced of the fact that the allegations pertain to dishonour of cheque and, therefore, only the provisions of the Negotiable Instruments Act were attracted.



So far as offences under Sections 420, 467 and 468 of the I.P.C. are concerned, this arose out of the dishonour of the cheque which was given by the opposite party No. 2.

Be that as it may, this Court does not find any good reason to interfere with the order passed by the learned Chief Judicial Magistrate, Aurangabad in granting bail to the opposite party No. 2.

This Court is also of the view that since there was an existing business relationship between the parties and there has been a dishonour of cheque issued by the opposite party No. 2, the remedy with the petitioner/informant was to prefer a complaint. Even if some of the ingredients of the offences under Sections 420, 467 and 468 of the I.P.C. are made out, that does not preclude any Court from granting bail, considering the circumstances existing between the parties.

For the aforesaid reasons, this Court does not wish to interfere with the order granting bail to the opposite party No. 2.

This petition is, accordingly, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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