

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15177 of 2018

Arising Out of PS.Case No. -280 Year- 2014 Thana -SUGAULI District- EASTCHAMPARAN
(MOTIHARI)

- =====
1. Dinesh Tiwari, son of Parasnath Tiwari,
 2. Dhananjay Kumar, son of late Jawahir Ram, both residents of village- Wariswan, P.s.- Shahpur, District- Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lorik Raut, son of Sadhulal Raut, resident of village- Dumari Mahnawa, P.S.- Majhauriya, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Dr. Mrityunjaya Kr. Gautam, APP

For the Informant : Mr. Akhileshwar Prasad Singh, Sr. Advocate
Mr. Prabhu Narayan Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 27-07-2018

Heard learned counsel for the petitioners and learned

APP for the State as well as learned counsel for the Informant.

Petitioners apprehend their arrest in **Sugauli P.S.**

Case No.280 of 2014 instituted for the offence under Section(s)
406 and 420/34 Indian Penal Code.

Counsel for the petitioners submits that in the First Information Report it has been specifically alleged that informant has transferred Rs.1,70,000/- in the account of Dhananjay Kumar, but the correct fact is that amount was deposited in the account of Dhananjay Kumar. In support of such submission, petitioners have enclosed statement of Bank as Annexure-2.



Counsel for the petitioners further submits that informant has taken loan of Rs.2,50,000/- from the petitioner No.1 and assured to return the amount within six months, but he returned only Rs.1,70,000/- by depositing the amount in the account as mentioned in the Bank Statement. Counsel for the petitioners has enclosed agreement in which amount of Rs.2,50,000/- is mentioned as given to the informant by petitioner No.1-Dinesh Tiwari. Counsel for the petitioners further submits that instead of returning the remaining amount to the petitioners, the informant has lodged instant case making allegation that he has paid payment of Rs.1,70,000/- through bank transfer and Rs.1,90,000/- by cash. Counsel for the petitioners further submits that he has also filed a case for recovery of his amount.

Counsel for the Informant submits that signature of the informant on the agreement (Annexure-3) is not genuine.

This Court is of the view that all these can be tested during trial and not at this stage. This Court finds that dispute between the parties is of money transaction.

In the facts and circumstances of the case, prayer of the petitioners for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioners, named above, within



six weeks from today in connection with in **Sugauli P.S. Case No.280 of 2014**, 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 **Additional Chief Judicial Magistrate, Motihari, District – East Champaran**, 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.

(Sanjay Priya, J)

**JA/-
Rohit Kr.**

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