

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9924 of 2018

Arising Out of PS.Case No. -1027 Year- 2017 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Vishnu Dayal Paswan, S/o late Ram Sewak Paswan
2. Ram Singori Devi @ Ram Singari Devi, W/o Vishnu Dayal Paswan
Both Resident of Vill +P.O. -Dayal Pur, P.S. Rajapakar, District- Vaishali,
at Present residing Alamganj Police Station Campus, P.S. Alamganj,
District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Irfan Khan, S/o late Dada Mohammad, Resident of Mohalla- Wakil
Anwar House, Jamal Road, P.S. Kotwali, District+Town-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Dipak, Advocate.

For the Opposite Party/s : Mr. Yogendra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 11-05-2018 Heard learned counsel for the petitioners and the

State.

The petitioners apprehend their arrest in **Complaint**
Case No. 1027(C) of 2017 instituted for the offence under Section
420 of the Indian Penal Code and Section 138 of N.I. Act.

It is alleged in the written report that petitioner having
professional relation with the complainant took cloth worth
Rs.1,10,000/- on credit from the complainant. The petitioners gave
Cheque of Rs.1,10,000/- to the complainant but when the cheque
was presented in the Bank, the cheque bounced due to insufficient
fund.



Learned counsel for the petitioners has submitted that petitioners have made payment of the entire amount. The cheque has been given as security which has been misused by the complainant.

The learned counsel for the petitioners has not filed any supporting document either in the complaint petition or during argument, regarding returning the amount to the complainant. Learned counsel for the petitioners has pointed out Annexure-2 which is letter written to police official with regard to making payment of money by the petitioners.

Learned counsel for the complainant has appeared and submitted that these are all defence made by the petitioners just to misappropriate the money. He has submitted that he is ready to accept the money even in installments.

In such circumstances, this application is disposed off with direction to the petitioners to surrender in the court below i.e. **learned Additional Chief Judicial Magistrate-VII, Patna,** within a period of eight weeks from the date of receipt/production of a copy of this order along with an affidavit that they will make payment of Rs.1,10,000/- to the complainant by Demand Draft in five equal installments and in the event petitioners at the time of their surrender make payment of 1st installment by way of Demand



Draft and produce valid receipt showing payment of 1st installment, the court below will enlarge the petitioners on provisional anticipatory bail to its own satisfaction for a period of six months in connection with **Complaint Case No. 1027 (C) of 2017** 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 absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioners 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.

Thereafter, the petitioner will make payment of remaining amount within a period of four months in equal monthly installments by 15th of every month. After making full payment of Rs.1,10,000/- and on producing valid receipts showing payment of the entire amount to the complainant by way of demand draft, the court below will confirm the provisional anticipatory bail of the petitioners after six months.

It is made clear that in the event petitioners make



default in making payment of any single installment as ordered above, the court below will be at liberty to pass appropriate order in accordance with law including cancellation of provisional anticipatory bail granted to the petitioners. The entire amount paid by the petitioners will be subject to the final decision of the case.

S.Ali/-

(Sanjay Priya, J)

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