

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13837 of 2018

Arising Out of PS.Case No. -1440 Year- 2016 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. DIGAMBAR KUMAR @ DIGAMBAR KUMAR MALAKAR, S/o-
Devendra Kumar Malakar, resident of Jyoti Bihar Colony, P.S.-
Industrial, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Raj Pandey, S/o Satyendra Pandey, resident of village- Uma Charan
Voslen, Kharmanchak, P.S.- Adampur, District- Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Abhoy Kumar Kashyap, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP
For the Opposite Party No.2 : None

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6/ 28-08-2018

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner apprehends his arrest in **Bhagalpur**
Complaint Case No.1440 of 2016 instituted for the offence
under Section(s) 406, 420 Indian Penal Code and Section 138 of
the Negotiable Instrument Act.

None has appeared on behalf of the Opposite Party
No.2 although Opposite Party No.2 has appeared by filing
vakalatnama.

Earlier, matter was sent to Mediation Center but the
mediation failed and the dispute could not be resolved.



Counsel for the petitioner submits that there is no chit of paper in support of allegation made by the complainant that he had given loan of Rs.15,00,000/-. It has also been submitted that similarly there is no mention in the complaint petition that the cheque, which is alleged to have been bounced, is enclosed as enclosure. Counsel for the petitioner further submits that it is unbelievable that loan of Rs.15,00,000/- will be given to anybody without any valid paper. It is further submitted that no notice as required for the offence under Section 138 of the Negotiable Instrument Act was issued to the petitioner.

In the facts and circumstances of the case, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Bhagalpur Complaint Case No.1440 of 2016**, he shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Chief Judicial Magistrate, Bhagalpur**, 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) petitioner shall cooperate in the trial and shall be present on each and every date



fixed by the court and his absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner tampers 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 petitioner.

(Sanjay Priya, J)

**JA/-
Rohit Kr.**

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