

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54317 of 2018

Arising Out of PS. Case No.-7 Year-2018 Thana- PATLIPUTRA District- Patna

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Amar Paswan S/o Late Sakaldev Paswan, resident of Mohalla- Mainpura,
Gorya Sathan, P.S. Patliputra, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar

For the Opposite Party/s : Mr. Sri Satyadev Prasad Singh Yadav

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 20-09-2018 Heard learned counsel for the petitioner and learned

learned Additional Public Prosecutor for the State as well as the

informant.

The petitioner is in custody in connection with
Patliputra P.S. Case No. 07 of 2018 for the offenses under
Sections 406 and 420 of I.P.C. and Section 138 of NI Act.

Learned counsel for the petitioner submits that the
FIR itself is not sustainable in law for the reason that for offense
under Section 138 NI Act the procedural requirement is filing a
complaint and not FIR. Criminal case is not a mode of
realisation of money claims. The law in this regard is well
settled. It is submitted that offense under Section 138 NI Act is
complete but he has no answer to the proposition that FIR is not
permissible for offense under Section 138 NI Act.



Considering the fact that when the FIR itself is under cloud and recovery of money claim is not permissible by way of criminal proceeding, the court is inclined to grant bail to the petitioner.

Considering the aforesaid, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the C.J.M, Patna in connection with Patliputra P.S. Case No. 07 of 2018.

(Anil Kumar Upadhyay, J)

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