

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.69654 of 2018

Arising Out of PS. Case No.-116 Year-2017 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Laxman Poddar @ Lakshman Poddar, Son of Late Bauwelal Poddar, Resident of Village-Behat Uttari, P.S.-Lakhnaur, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Jha, S/o Late Rambahadur Jha, Resident of Navtaul Mauja, Beehat Dakshin, P.S.-Lakhnaur, District-Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar

For the Opposite Party/s : Mr. Ram Sumiran Roy

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-12-2018 Heard learned counsel for the petitioner learned counsel for the Opposite Party No.2 as well as learned APP for the State.

The petitioner is apprehending arrest in a Complaint Case wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 420 of the Indian Penal Code.

The prosecution case as per the complaint petition is that the petitioner took loan of Rs. 4 lack 96 thousand (Rs.4,96,000/-) from the complainant and assured him to return the same within one year. The petitioner also gave a cheque to the complainant. After one year, the complainant submitted the



said cheque in the bank in order to withdraw the money from the bank account of the petitioner which got dishonoured and when the complainant asked the petitioner to return the loan amount then he refused to return the same.

It is submitted by the learned counsel for the petitioner that in the initial accusation, the exact amount of loan was not mentioned and it is further submitted that even assuming the accusation to be true, no offence under Section 420 IPC is made out against the petitioner. It is further submitted that the cognizance under Section 138 of the N.I. Act has not been taken. A statement has been made in paragraph no.3 that the petitioner is involved in three other cases, two of them are of similar nature of offence.

The learned counsel for the complainant produced some orders passed in criminal miscellaneous applications by the Co-ordinate bench of this Court whereby the petitioners have been granted bail in similar nature of cases on returning the cheque. Hence, he prays for the similar order in favour of the petitioner.

Considering the fact that in the present case, cognizance has not been taken under Section 138 of the N.I. Act whereas in other two cases in which the petitioner has been made accused cognizance was taken under Section 138 of the



N.I. Act and even the detail of the cheque issued by the petitioner has not been given in the complaint, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. III, Jhanjharpur, in connection with Jhanjharpur Complaint Case No. 116 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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