

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52980 of 2018

Arising Out of PS. Case No.-29 Year-2018 Thana- GANDHIMAIDAN District- Patna

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Kishun Kumar @ Kishun Prasad, Son of Late Rajeshwar Sahu, Working in S.B.I. (L.H.O.) Gandhi Maidan on the post of Sr Head Messenger, Resident of Village- Bhagwatipur Bazar, P.S.- Pandaul, District- Madhubani, at present residing at Mohalla- Maharani Colony, House of Arbind Kumar (Shanti Niwas), P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek

For the Opposite Party/s : Mr. Anish Chandra

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 18-12-2018 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner seeks bail in Gandhi Maidan P.S. Case No.
29 of 2018 registered under Sections 341, 323, 504, 506 and
420/34 of the Indian Penal Code.

Petitioner is said to have taken Rs. 10 lakhs on different
dates in lieu to execute his land in favour of the father of the
informant executing an agreement but he did not execute the
land and on demand handed him over two cheques one of Rs.2
lakh and another of Rs.8 lakhs, which was bounced on
presentation in the bank and on demand of the money the
petitioner and his son indulged in the spate.



It is submitted by learned counsel for the petitioner that no such occurrence as alleged ever took place. Petitioner had neither taken Rs.10 lakhs in lieu to execute any land in favour of the father of the informant nor executed any agreement in his favour. As a matter of fact, he had taken Rs.2,40,000/- from his father for the treatment of her daughter and now he is ready to pay back the same in installments. It is also submitted that cheques are said to have been issued in the year 2012 but the aforesaid case has been lodged after six years in the year 2018, which is also time barred. It is further submitted that for the bouncing of the cheques the F.I.R. is not maintainable rather the drawee ought to have filed complaint after giving notice to the petitioner within the stipulated period of limitation. It is also submitted that as per the case the agreement took place between the father of the informant and the petitioner, hence the informant has no *locus standi* to file the aforesaid case against the petitioner. The petitioner has been languishing in custody since 08.06.2018.

Considering the facts aforesaid, the above named petitioner is directed to 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 learned Sub Judge-XVII-



cum-A.C.J.M., Patna in connection with Gandhi Maidan P.S.
Case No.29 of 2018, subject to condition that the petitioner
would pay Rs.2,40,000/- in three equal installments of one
month each after one month from the date of this order through
cheque to the father of the informant without prejudice to the
claim of the informant and in case of failure of payment of any
installment, the learned lower court shall be at liberty to cancel
the bail bond of the petitioner.

(Prakash Chandra Jaiswal, J)

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