

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3329 of 2019

Arising Out of PS. Case No.-421 Year-2018 Thana- GANDHIMAIDAN District- Patna

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Pintu Kumar @ Pintu Kumar Sharma s/o Mahendra Thakur Resident of
Village Harna PS Sherghati District Gaya at present Yamuna Market Kanti
factory road PS Kankarbagh District Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bipin Kumar

For the Opposite Party/s : Mr.Murli Dhar

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

3 27-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in connection with Gandhi
Maidan P.S. Case No. 421 of 2018 registered under Sections
420, 379/34 of the Indian Penal Code.

Petitioner claiming himself to be an employee of
Global Carrier Pvt. Limited has received Rs. 4,15,000/- from the
informant in the name of getting her son admitted in the
M.B.B.S. course.

It is submitted by learned counsel for the petitioner
that petitioner is quite innocent and has been falsely implicated
in this case. The petitioner has committed no offence and has no
concern with the aforesaid occurrence. Petitioner is simply an



employee of the said company. Whatever money he has taken from the informant, has been deposited by him in the account of the said company. Learned counsel for the petitioner relying upon the judgment of this Court rendered in **Vijay Sharma & Anr. Vs. State of Bihar** reported in **2011 (1) PLJR 780** has further submitted that if the informant voluntarily parted with money for an illegal purpose of securing admission of her son in MBBS course for a money consideration, which itself was an offence she can't urge that she has been cheated. The concept of cheating shall have no application where the act which is stated to constitute cheating was itself an offence. The informant was aware of the crime and cannot contend that failure to commit the crime amounted to cheating her.

On the other hand learned APP and learned counsel for the informant opposed the bail prayer of the petitioner and submitted that admittedly the petitioner has taken Rs. 4,15,000/- from the informant in the name of getting admission of the son of the informant in M.B.B.S. course and the aforesaid amount has been deposited in his account. Thus the petitioner has cheated the informant by taking the aforesaid amount and he does not deserve bail.

In the facts and circumstances of the case, the above



named petitioner is directed to be enlarged on bail on furnishing
bail bonds of Rs. 10,000/- with two sureties of the like amount
each to the satisfaction of the learned Additional Chief Judicial
Magistrate-XVII, Patna in connection with Gandhi Maidan P.S.
Case No. 421 of 2018.

(Prakash Chandra Jaiswal, J)

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