

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11356 of 2019

Arising Out of PS. Case No.-406 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Ramesh Kumar, aged about 28 years, male, Son of Lakshman Prasad Resident of Village -/Mohalla- Mohan Bigha, Bypar Mandal, Station Road, Dehri-on-Sone, P.S.-Dehri (T), District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kiriti Chandan, aged about 29 years, Male, Son of Lakshmi Kant Mahto Resident of Ward no.16, Madhopur Banauli, P.S.- Simri, Distt.- Darbhanga. At Present Tenant in the House of Smt. Girija Devi, Resident of Mohalla-Saidpur Nahar Road, Behind Lal Nursing Home, near Lily Apartment, P.S-Kadamkuan, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh
For the Opposite Party/s : Mr.Murli Dhar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-02-2019 Heard learned counsel for the petitioner and learned
APP representing the State.

Petitioner is seeking anticipatory bail in connection with Complaint Case No. 406 of 2018 registered for the offences punishable under Sections 420, 406 and 120 (B) of the Indian Penal Code and Section 138 of the N.I. Act.

Learned counsel for the petitioner submits that no doubt the petitioner had filed an informatory petition that certain cheques which were kept in a bag had gone missing but the learned Court below has not accepted that saying that the said



informatory petition neither bears any date nor any information number is mentioned thereon, the fact remains that no case under Section 420 or 406 would be made out. It is further submitted that the dispute is in the nature of civil dispute and as such the learned Court below should not have rejected the prayer for anticipatory bail by taking note of the contention of the other side that the petitioner is not ready to refund even 20% of the dishonoured cheque amount.

On the other hand, learned APP for the State submits that the petitioner has allegedly received a sum of Rs.5,50,000/- from the complainant on the pretext of selling him one Katha of land but then the land was not provided to the complainant. Later on, the petitioner drew a cheque of Rs.2,58,000/- in favour of the complainant towards refund of a portion of the amount received from the complainant. This cheque stood dishonoured for want of sufficient fund. According to the complainant, the petitioner had while issuing the cheque in question assured the complainant that he will refund the balance amount of Rs.2,92,000/- in the last week of December, 2017.

In the given facts and circumstances of the case, this Court is of the view that in case the petitioner surrenders in the learned Court below and prays for regular bail within a period



of four weeks from today together with 50 % of the cheque amount in favour of the complainant with an undertaking that he will deposit rest 50% amount in three equal monthly installments, the prayer for bail shall be considered on the same day and shall be disposed of keeping in mind inter-alia the payment and the undertaking. It is made clear that although this Court was not willing to fix the installments but on the request of learned counsel for the petitioner to allow installments, this Court has recorded the undertaking of the petitioner. This will however be without prejudice to the contention of the petitioner in the criminal proceeding.

This application thus stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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