

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13756 of 2019

Arising Out of PS. Case No.-1490 Year-2015 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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ASHOK KUMAR SINGH, Son of Sri Rajbali Singh, Resident of Village - Bhokhari, P.S.- Karagahar, District - Rohtas at Sasaram at Present Resident of Village - Lalapur, P.S- Kudra, District - Kaimur (Bhabhua)

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Sanjay Kumar Pandey Son of Ramyash Pandey Resident of Village - Kudra, P.S.- Kudra, District - Kaimur (Bhabhua)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Singh
		Mr. Dharmendra Kumar Singh
For the Opposite Party/s :		Mr.Manoj Kumar
For O. P. No. 2	:	Mr. Arun Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 24-06-2019 Heard learned Counsel for the petitioner, learned Counsel for the Opposite party No. 2 and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Complaint Case No. 1490 of 2015, disclosing offences under Sections 420 and 406 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act, 1881.

The allegation against the petitioner is that the petitioner had issued a cheque of Rs. 3,25,000/- in favour of the Opposite Party No. 2, which stood dishonoured on 19.08.2015. Further allegation is that the petitioner misappropriated Rs.



3,60,000/- of the Opposite Party No. 2 and fraudulently issued the said cheque despite knowing that he was not having sufficient fund in his bank account.

Learned Counsel for the petitioner has submitted that upon bare perusal of the complain petition, no offence under Section 406 and/or 420 of the Indian Penal Code is made out inasmuch as the petitioner has issued a cheque, which got dishonoured and the offence is at best covered under Section 138 of the Negotiable Instruments Act, 1881. He further submitted that there was case and counter case and the petitioner has also lodged a complaint, being Complaint Case No. 1565 of 2018 against the Opposite Party No. 2, alleging therein that the petitioner had given advance for purchase of 0.5 decimal of land, which was not registered as per the promise of the Opposite Party No. 2.

Learned Counsel for the Opposite Party No. 2, on the other hand, has submitted that the petitioner had issued a cheque without having sufficient fund in his bank account and the petitioner is also a habitual offender inasmuch as he has criminal antecedent.

After having heard learned Counsel for the parties concerned, I am of the opinion that the petitioner deserves



privilege of anticipatory bail.

Accordingly, this application is allowed.

Let the petitioner, Ashok Kumar Singh, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur, at Bhabhua, in connection with Complaint Case No. 1490 of 2015, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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