IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15854 of 2019

Arising Out of PS. Case No.-287 Year-2018 Thana- AMAS District- Gaya

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Md. Shamim Ahmad @ Shamin Ahmad, Male, aged about 53 years, Son of Md. Yusuf Ali, Resident of Baligaon, Tola Belbigha, P.O.- Ismailpur, P.S. Gurua, District- Gaya.

... ... Petitioner

Versus

The State of Bihar

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Vikas Ratan Bharti, Advocate
For the State	:	APP
For the Informant	:	Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 15-03-2019 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 323, 406, 420, 467, 468, 471 and 120B of the Indian Penal Code and Section 138 of the Negotiable Instruments Act registered in connection with Amas P.S. Case No. 287 of 2018.

3. The prosecution story, in short, is that the informant was selling his products through the petitioner in respect of which an amount of Rs. 11,13,600/- became outstanding from the petitioner. Some payments were made from time to time aggregating to Rs. 3,69,000/- and for the remaining amount of Rs. 8,13,600/-, a cheque dated 17.11.2018 was issued in favour of the informant. However, upon presentation, the same was dishonoured on 19.11.2018. The parties had entered into an agreement dated 04.10.2017 according to which in default, the petitioner had agreed to register his land measuring 2½ decimals in favour of the informant.

4. Learned counsel for the petitioner submits that as a matter of fact, he has made the entire payment to the informant

through cheque dated 17.11.2018. He had made cash payment of the said amount subsequently but the informant did not return the cheque rather the same got dishonoured with an intention of grabbing land from the petitioner. The petitioner expresses his readiness to make payment of 20% of the amount of the cheque i.e. Rs. 1,62,720/- having regard to the provisions of Section 143(A) of the Negotiable Instruments Act.

5. Learned counsel for the informant, on the other hand, submits that intention of the petitioner to cheat the informant is writ large on the face of it. Even though payment in question arose out of business transaction, the petitioner had no intention to make payment at the time of entering into agreement dated 04.10.2017. It is submitted that it is highly improbable that a person, who issued a cheque of Rs. 8,13,600/- and at the same time paid cash of the said amount contrary to the provisions of the Income Tax Act, requested for return of the cheque. Moreover, the petitioner has not shown any material in support of the claim that he had paid cash of Rs. 8,13,600/-to the informant. It is further submitted that Section 143(A) of the N.I. Act is concerned with the interim compensation and not amount of the cheque itself. The petitioner's intention to cheat the informant is further apparent from the fact that the petitioner has not transferred the land to the informant till date.

6. Having regard to the nature of accusations, gravity of offence alleged as well as in view of the submissions of learned counsel for the informant, this Court is not inclined to grant anticipatory bail to the petitioner. The anticipatory bail petition stands dismissed.

(Vikash Jain, J)

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