

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17271 of 2019

Arising Out of PS. Case No.-220 Year-2018 Thana- BEUR District- Patna

SANJAY KUMAR SINHA @ SANJAY KUMAR Son of Late Braj Mohan Prasad Resident of Mohalla - Khajpura Nandanpuri, P.S.- Hawai Adda, Patna, permanent address at Village - Purshotampur, P.S.- Maker, Distt.- Chhapra and Flat No.- 2A, Kamta Heritage Beur, P.S.-Beur, Distt.- Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Kavita Devi, Wife of Nand Kishore Kumar R/o- Shri Krishna Bihar Colony, Flat No.- 202, Manimala Apartment, P.S.- Beur, Dist.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tilak Sao

For the Opposite Party/s : Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 15-07-2019 Heard learned Counsel for the petitioner, learned Counsel for Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Beur Police Station Case No. 220 of 2018, disclosing offences under Sections 406/420/34 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act, 1881.

The allegation against the petitioner is that the petitioner was having family relation with the Opposite Party No. 2 and taking advantage of that relationship, he represented before the Opposite Party No. 2 that he has got a contract from the State of Bihar, for which he needs a sum of Rs. 40,00,000/-,



as loan from Opposite Party No. 2 and he also assured the Opposite Party No. 2 that the profit accruing out of the said contract executed by the petitioner would also be given to Opposite Party No. 2. Upon this representation, the Opposite Party No. 2 granted a loan of Rs. 40,00,000/- in favour of the petitioner, for which the petitioner issued three cheques in favour of the Opposite Party No. 2, of Rs. 10,00,000/-, 10,00,000/- and 20,00,000/- respectively. When the petitioner defaulted in making repayment of the loan amount, the Opposite Party No. 2 produces the cheques in question before the Bank for encashment, which were dishonoured.

Learned Counsel for the petitioner submits that the petitioner has not committed any offence in the manner alleged and upon perusal of the First Information Report, no *prima facie* case under Section 406 and/or 420 of the Indian Penal Code is made out and, at best, a case under Section 138 of the Negotiable Instruments Act, 1881 is made out against the petitioner. However, the offence, under Section 138 of the Negotiable Instruments Act, 1881 is not applicable inasmuch as it does not comply with the requirement of the provisions under the Negotiable Instruments Act, 1881.

Learned Counsel for the Opposite Party No. 2



vehemently opposed the prayer for anticipatory bail and submits that on the basis of false promise to give share in the profit, the petitioner has obtained loan from the Opposite Party No. 2 and in the criminal breach of trust, the petitioner has not repaid the amount, in question, to the Opposite Party No. 2.

After having heard learned Counsel for the parties and taking into consideration the fact that the dispute between the parties are of money claim and it appears that the petitioner had taken friendly loan from Opposite Party No. 2, which he failed to repay, I find it a fit case for grant of privilege of anticipatory bail. Accordingly, this application is allowed.

Let the petitioner, Sanjay Kumar Sinha @ Sanjay Kumar, 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 Sub Judge VIII -cum- Additional Chief Judicial Magistrate, Patna, in connection with Beur Police Station Case No. 220 of 2018, 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.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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