

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13962 of 2019

Arising Out of PS. Case No.-678 Year-2018 Thana- KATIHAR District- Katihar

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1. BAIDYA NATH GUPTA, Son of Late Shivnath Gupta
 2. Manju Devi, Wife of Baidya Nath Gupta
 3. Shankar Kumar Gupta @ Shankar Kumar, Son of Baidnath Gupta
All are Resident of Haridayaganj, PS- Katihar(S), Distt - Katihar.
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-03-2019 Heard learned counsel for the petitioners and learned
counsel for the informant.

Petitioners are seeking anticipatory bail in connection with Katihar (Sahayak) P.S. Case No. 678 of 2018 registered for the offences punishable under Sections 406, 420 and 506/34 of the Indian Penal Code and Section 138 of N.I. Act.

After some argument, learned counsel for the petitioners submits that he would not press this application on behalf of the petitioner no.1 who is said to be the signatory of the cheques in question and would rather seek his remedy in regular bail.

Let the application as regards the petitioner no.1 be dismissed as withdrawn with liberty to him to surrender and



pray for regular bail within four weeks from today. If such an application is filed within the aforesaid period, the same shall be considered by the court below on its own merit without being prejudiced by the order of this Court.

Learned counsel for the petitioners has argued the case on behalf of the petitioner nos.2 and 3. It is submitted that from bare perusal of the FIR it would appear that these two petitioners had not made any misrepresentation to the informant. It is apparent that the informant had allegedly extended the help after taking forged cheques of petitioner no.1 as signatory. In such circumstance, these two petitioners deserve the privilege of anticipatory bail.

On the other hand, learned counsel for the informant has opposed the prayer for anticipatory bail of these petitioners as well. It is submitted that these two petitioners had also put their signature on the bond executed in favour of the informant. It is submitted that in the bond they had agreed that on failure to refund the amount the same will be recovered in accordance with law. It is submitted that in such circumstance Section 420 IPC is equally attracted against these petitioners.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the considered opinion



that so far as these two petitioners (petitioner nos.2 and 3) are concerned, even though they have put their signature on the bond permitting the informant to recover the amount in question by legal action, that alone will not be taken as a bar in seeking the privilege of anticipatory bail.

In the facts of the present case where the cheques are said to have been issued by the petitioner no.1 who is a government servant and on whose representation the money was advanced, for the present, this Court is willing to extend the privilege of anticipatory bail to petitioner nos.2 and 3.

Let, in case of arrest or surrender of the petitioner nos.2 and 3 within a period of four weeks from today, the abovenamed petitioners be enlarged on bail on furnishing bail bond of Rs.15,000/- (rupees fifteen thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Katihar in connection with Katihar (Sahayak) P.S. Case No. 678 of 2018, subject to the condition prescribed under Section 438(2) of the Cr.P.C.

(Rajeev Ranjan Prasad, J)

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