

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16797 of 2019

Arising Out of PS. Case No.-251 Year-2016 Thana- CHHATAUNI District- East Champaran

SANJAY KUMAR @ SANJAY PRASAD YADAV Son of Baiju Rai Resident
of Village - Ward no. 2, Mohalla Jagatia, P.S.- Pakaridayal District - East
Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Anil Kumar

For the Opposite Party/s : Mr.Ramchandra Singh

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

7 27-09-2019

Heard learned counsel for the parties.

This application for anticipatory bail arises out of
Chhatauni P.S. Case No. 251 of 2016 for the offence punishable
under Section 406 of the Indian Penal Code and Section 138 of
the Negotiable Instrument Act.

It is alleged in the First Information Report that the
petitioner had taken loan to the tune of Rs. Ten lakh from the
informant, which he did not return. The amount was paid in the
petitioner's account by a multi city cheque issued by the
informant.

A supplementary affidavit has been filed on behalf
of the petitioner and a counter affidavit has also been filed on
behalf of the informant.

Learned counsel appearing on behalf of the



petitioner submits that even if the allegation made in the First Information Report are taken to be correct on its face value, no offence under Section 406 of the Indian Penal Code nor under Section 138 of the Negotiable Instrument Act can be said to be made out.

Learned counsel appearing on behalf of the informant has opposed the prayer for anticipatory bail and has submitted that this Court may intervene into the matter to ensure that the said amount of Rs. ten lakh is returned to the informant.

On perusal of the First Information Report, I am, *prima facie*, of the view that strictly speaking, no offence under Section 406 of the Indian Penal Code is made out nor do the allegation constitute any offence punishable under Section 138 of the Negotiable Instrument Act. The plea that the petitioner has criminal antecedent, in the facts and circumstances of the case, cannot come in the way of considering the petitioner's case for grant of anticipatory bail.

Considering the above, this application is allowed.

Let the petitioner above named, in the event of his arrest/surrender within six weeks from today in the Court below, 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 the learned C.J.M., Motihari, East Champaran, in Chhatauni P.S. Case No. 251 of 2016, subject to the conditions as 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 bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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