

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20987 of 2019

Arising Out of PS. Case No.-4574 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. PUNIT JAIN @ Punjit Jain Son of Shri Jitendra Kumar Jain Resident of Flat No. 302, Om Vihar Apartment, Kadamkuan, P.S.- Kadamkuan, District- Patna
 2. Rohini Ranjana @ Rohini Jain Wife of Shri Punit Jain Resident of Flat No. 302, Om Vihar Apartment, Kadamkuan, P.S.- Kadamkuan, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Vijay Kumar Son of Late Lakshmi Narayan Singh Resident of Housing Colony, Bhootnath Road, P.S.- Agamkuan, District- Patna, Bihar-800026

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Satyabir Bharti
		Ms. Aparna Arun, Advocate
For the Opposite Party/s :		Mr.Rajendra Prasad Nat
For the Informant	:	Mr. Saket Tiwary

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 04-04-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Complaint Case N0. 4574(C) of 2017, disclosing offences under Sections 420/34 & 406 of the Indian Penal Code.

The gist of the allegation against the petitioners is that they have received substantial amount from the complainant under some assurance that they would be transferring a piece of land in his favour, which they subsequently refused. It is also alleged that the petitioner No.1 had issued two cheques worth



Rs. 9.15 lakhs, which stood dishonoured because of the insufficiency of fund in the account. This is not in dispute that a complaint case has been instituted for an offence under Section 138 of the Negotiable Instruments Act with the allegation of dishonour of cheque, which is pending. This is also not in dispute that the transaction as alleged in the present complaint petition is the same which is the subject matter of the same complaint case petition numbered as 2318© of 2015, alleging commission of the offence under Section 138 of the Negotiable Instruments Act.

Ms. Aparna Arun, learned counsel for the petitioners has argued that even if the allegations made in the complaint case are treated to be true, no criminal liability can be said to be made out. She has relied on a decision of this Court dated 28.08.2017 passed in Cr. Misc. No.29271 of 2016 (Rohini Ranjana Vs. State of Bihar) in support of her contention that filing of the complaint case is an abuse of the process of the Court.

Learned counsel appearing on behalf of the complainant has opposed the prayer for bail. However, in my view, learned counsel for the petitioners has been able to make out a case for grant of anticipatory bail as the offence alleged in



the complaint petition, primarily constitute civil liability.

This application is, accordingly, allowed.

Let the petitioners above named in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned ACJM-III, Patna in Complaint Case No. 4574(C) of 2017, 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 petitioners shall present themselves before the Police/Court, as the case may be, as and when required and in the event of failure on their part to appear before the Court on two consecutive occasions, their bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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