

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25333 of 2019

Arising Out of PS. Case No.-6 Year-2015 Thana- FATUA District- Patna

RAKESH KUMAR, Son of Shri Devendra Prasad, Resident of Village-Nathupur,P.S-Fatuha, District-Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR

2. Mr. Chaturan Singh, son of Sri Ram Bilash Singh, resident of village-Erai, P.S.-Shahjahanpur, District-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan Sinha

For the Opposite Party/s : Mr.Satyavrat Verma

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 30-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the O.P. No.2.

Petitioner, in the present case, is seeking anticipatory bail in connection with Fatuha P.S. Case No.6 of 2015 registered for the offence punishable under Sections 406 and 420 of the Indian Penal Code.

The allegation against the petitioner is that on the pretext of making available a piece of land to the informant he had received a sum of Rs.4 lacs from the informant. When the petitioner could not make available the land, he issued a cheque in favour of the informant for a sum of Rs. 4 lacs but when the said cheque was presented to the banker of the informant for encashment, the cheque stood dishonoured in want of sufficient fund. It is alleged that thereafter when the informant was



demanding his money from the petitioner, the petitioner made available a sum of Rs.1,25,000/- in cash and handed over a cheque of Rs.2,75,000/- to the informant, but thereafter the petitioner has refused to make payment of the amount.

Learned counsel for the petitioner submits that the petitioner and the informant were friend and there is no such agreement as is being claimed by the informant whereunder the petitioner is said to have issued a cheque of Rs.2,75,000/-.

Learned counsel for the opposite party no.2 has opposed the prayer for anticipatory bail. In course of hearing, learned counsel has produced before this Court a document containing the revenue stamp and signature of the petitioner thereon which acknowledges the outstanding sum of Rs.2,75,000/- and whereunder the petitioner had undertaken to pay the said amount by October, 2014. Learned counsel for the opposite party no.2 has also produced before this Court a cheque bearing no.838931 for Rs.2,89,000/- bearing signature 'Rakesh Kumar' which is said to be that of the petitioner. Learned counsel submits that although the cheque has been issued to the informant, but the petitioner was all the times requesting the informant not to deposit the cheque for encashment because he was not having sufficient fund in the



account and every time a promise was made to make payment within a short time which was never fulfilled.

Having heard learned counsel for the petitioner and learned counsel representing the informant, this Court finds that there are some materials available saying that the petitioner having received money from the informant acknowledged his liability to pay Rs.2,75,000/- for which he had also issued a cheque has failed to do so. The Court is reminded of the judgement of the Hon'ble Supreme Court in the case of Rajesh Bajaj Vs. State (NCT of Delhi) reported in (1999) 3 SCC 259 wherein their Lordships held that most of the criminal proceedings arises out of faith and while saying so it was held that in the given case civil as well as criminal proceeding may go together.

In the facts of the present case it appears that between the two friends the transactions which took place out of faith is allegedly not proved faithful and has given rise to the present case.

Be that as it may, in the given facts and circumstances of the case petitioner does not deserve privilege of anticipatory bail.

This application is dismissed.

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(Rajeev Ranjan Prasad, J)

