

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31970 of 2019**

Arising Out of PS. Case No.-237 Year-2017 Thana- BAHADURPUR District- Darbhanga

GIRIDHAR PRASAD SINGH @ GIRDHAR PRASAD SINGH Son of Ram
Naresh Prasad Singh Resident of Village - Jogyara, P.S.- Bahadurpur (Fekla
O.P.), Dist.- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No2

For the Opposite Party/s : Mr.Rajeev Nayan (App 231)

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 16-05-2019 Heard both sides.

The petitioner apprehends his arrest in Bahadurpur (fekla O.P.) P.S. case No. 237 of 2017 registered under Section 406, 420 of the IPC and u/s 138 of Negotiable Instruments Act.

The informant alleged that petitioner took Rs. 10 lac two years ago for purchasing a piece of land and handed over two cheques, each of Rs. 5 lac, as security but petitioner did not return the money and when the cheques were presented, the cheques were returned with endorsement that there was no sufficient amount in the account of the petitioner.

The learned counsel for the petitioner submits that institution of FIR u/s 138 of N.I. Act is not maintainable without following the procedure prescribed u/s 142 of the N.I. Act. It is



further submitted that no date of delivery of cheque or presentation of cheque before the bank is mentioned in the FIR. The dispute is with regard to non payment of loan said to have been taken from the informant.

Having Considered the facts aforesaid and the fact that the dispute appears to have arisen due to non payment of loan and for that proper remedy is civil suit, the petitioner, above named, in the event of his arrest/ surrender before the court below within a period of four weeks from the date of receipt/ production of a copy of this order is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub divisional Judicial Magistrate, Darbhanga in connection with Bahadurpur (fekla O.P.) P.S. case No. 237 of 2017, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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