

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30487 of 2019

Arising Out of PS. Case No.-622 Year-2018 Thana- BUXAR District- Buxar

VIDYA SAGAR SINGH Son of Late Jagdish Singh Resident of Village -
Pajrawan, P.S.- Nuaon, District - Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha Mr. Viveka Nand Singh
For the informant	:	Mr. Anil Kumar Roy
For the Opposite Party/s	:	Mr. Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 16-08-2019 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Buxar Town Police Station Case No. 622 of 2018, disclosing offences under Sections 406/420/120-B of the Indian Penal Code and Section 138 of the Negotiable Instruments Act, 1881.

The allegation against the petitioner, as per the First Information Report lodged by the informant Ram Pravesh Singh, is that the petitioner is the owner of a brick-kiln and had represented the informant to purchase the said brick-kiln by way of ten-years lease for a total consideration amount of Rs. 20,00,000/-. It has further been alleged that out of Rs.



20,00,000/-, the informant paid the petitioner a sum of Rs. 19,50,000/-, but, as promised, the petitioner did not execute lease deed in favour of the informant. When the informant insisted for refund of the amount, the petitioner told that bricks, to the value of Rs. 20,00,000/-, would be given to the informant and the bricks worth Rs. 4,64,800/- was provided by the petitioner to the informant and the rest amount was refunded by the petitioner by way of cheque of Rs. 14,85,200/-, which has been bounced upon its presentation.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in this case inasmuch as there was no dealing of sell of brick-kiln of the petitioner with the informant and it is highly improbable that without having any agreement of sale, the informant would pay a huge amount of Rs. 19,50,000/- to the petitioner. He further submits that in fact the blank unsigned cheque of the petitioner was clandestinely taken by the informant because the informant is the supplier of coal and used to supply coal in the brick-kiln of the petitioner and taking advantage of the situation, two cheque leaves were stolen from the brick-kiln of the petitioner, which was subsequently placed after making forged signature of the petitioner before the bank. He further submits that even if the



allegation against the petitioner is taken to be correct, at best, an offence under Section 138 of the Negotiable Instruments Act, 1881 is made out against the petitioner, which is bailable in nature and for which there is separate procedure under the Act.

On the other hand, learned Counsel for the informant vehemently opposes the prayer for anticipatory bail and submits that the informant has been duped by the petitioner and on false promise, he has taken and misappropriated huge amount of the informant and in discharge of his liability, the petitioner had issued the cheque in favour of the informant, which has bounced and as such, the petitioner does not deserve privilege of anticipatory bail.

After having heard learned Counsel for the parties and taking into consideration the fact that no agreement for sale has been entered into between the parties prior to payment of huge amount to the petitioner by the informant and from perusal of the First Information Report, at best, an offence under Section 138 of the Negotiable Instruments Act, 1881 is made out against the petitioner, for which a separate procedure for filing complaint is mentioned in the Act, I am inclined to grant the petitioner privilege of anticipatory bail. Accordingly, this application is allowed.



Let the petitioner, Vidya Sagar Singh, in the event of his arrest or surrender before the Court below within four weeks, 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 learned Chief Judicial Magistrate, Buxara, in connection with Buxar Town Police Station Case No. 622 of 2018, subject to the condition 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 bond shall be liable to be cancelled.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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