

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38545 of 2019**

Arising Out of PS. Case No.-382 Year-2017 Thana- PATNA COMPLAINT
CASE District- Patna

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VIVEK KUMAR S/o Gopal Pd. R/o Mohalla- Rai Jai Krishna Road, Gurhatta,
P.S.- Khajekalan, District- Patna

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Madhu Prasad Gupta Son of Late Ramanand Prasad Resident of
Pandariwa lane, P.S.- Khajekalan, Dist.- Patna

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Rudra Deo, Advocate.

For the Opposite Party: Mr. Ram Sumiran Rai, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 17-09-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 420 of the Indian Penal Code and Section
138 of N.I. Act registered in connection with C.A. Case No. 382 of
2017.

3. It is submitted that the petitioner has been falsely
implicated on the accusation of having taken gold ornaments
worth Rs. 5,00,000/- for his business but repaid only
Rs. 2,04,350/- in cash. A cheque of Rs. 2,95,650/- was dishonored
on the instruction to stop payment thereof. It is further
submitted that the petitioner never entered into any such
transaction with the complainant nor he has any ornaments
business nor issued any cheque nor instructions for stop
payment, as stated in his reply to the legal notice of the
complainant. The petitioner has applied under RTI for
information from the bank with respect to the account in respect
of which the cheque is said to have been dishonored but no



details have been forthcoming. It is further submitted that the ingredients of Section 420 IPC under which cognizance has also been taken are not attracted in absence of any averments in the complaint that the ornaments have been taken with the intention of cheating the complainant at the inception itself. The petitioner claims clean antecedents.

4. Learned counsel for the complainant opposes the petition, submitting that the claim of the petitioner of not having a bank account is belied from the memo of the bank showing that the cheque had been dishonored on instruction of stop payment which therefore shows that the petitioner had an account with the bank.

5. Having regard to the entirety of the facts and circumstances of the case, the provisional anticipatory bail granted to the petitioner by order dated 28.06.2019 pending in the Court of SDJM, Patna City in connection with C.A. Case No. 382 of 2017 is hereby confirmed.

(Vikash Jain, J)

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