

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39158 of 2019**

Arising Out of PS. Case No.-47 Year-2018 Thana- LAKHNAUR District- Madhubani

Deepak Kumar Jha, son of Sri Shankar Jha Resident of Village - Mahisam,  
P.S.- Madhepur, District- Madhubani

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Akash Chaturvedi

For the Opposite Party/s : Mr.Nityanand

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

2      26-06-2019                      Heard learned counsel for the petitioner and learned  
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with  
Lakhnapur P.S. Case No.47 of 2018 for the offence punishable  
under Sections 406, 420, 504, 506 of the Indian Penal Code read  
with Section 138 of N.I. Act.

The allegation against the petitioner is that the  
informant being the owner of shop issued a cheque of  
Rs.25,000/- dated 17.08.2015 as consideration amount for  
purchase of asbestous sheet. The informant presented cheque in  
the year 2015 in the Bank of India and the same was  
dishonoured.

Learned counsel for the petitioner submits that cheque  
was allegedly dishonoured in 2015 but the FIR has been lodged  
by the informant after a lapse of three years in 2018 and no



notice under Section 138 of N.I. Act was ever served to the petitioner. It is further submitted that after investigation, police has submitted the final form and did not send the petitioner for trial.

Having heard learned counsel for the parties and upon perusal of the materials on record, I am satisfied that the prima facie petitioner has not committed any offence under Section 138 of N.I. Act inasmuch as the legal requirement under Section 138 of N.I. Act has not been fulfilled by the informant and further the informant has lodged the FIR instead of complaint petition that too after a lapse of three years. Accordingly, the petitioner is directed to surrender before the learned Court below within a period of four weeks and in the event of surrender by the petitioner, the petitioner shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate Ist Class, Jhanjharpur (Madhubani), subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

sanjeev/-

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**(Anil Kumar Sinha, J)**

