

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41311 of 2019**

Arising Out of PS. Case No.-2443 Year-2017 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

=====

DEEPAK KUMAR, Son of Awadhesh Prasad Singh, Resident of Village-
Mohabbatpur, P.S.- Deoriya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Murali Manohar, Son of Achhelal Singh Resident of Mohalla- Saraswati
Sadan, South of I.T.I., New Colony Ganipur (Mishra Tola), P.S.-
Kazimohammadpur, District- Muzaffarpur.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur
For the Opposite Party/s : Mr.Syed Ehteshamuddin

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 20-09-2019 The petitioner apprehends his arrest in connection with

Complaint Case No. 2443 of 2017, Trial No. 550 of 2019 in

which cognizance under Sections 406 and 420 of the Indian

Penal Code and Section 138 of the Negotiable Instrument Act,

has been taken by the learned Magistrate.

Allegation against the petitioner, as per complaint, is that

complainant has given a sum of Rs. 6,50,000/- to the petitioner

as loan for the purpose of business of fish. The petitioner

refused to refund money taken on loan to the complainant and

upon repeated payments, petitioner issued a post dated cheque

of Rs. 6,50,000/- of Punjab National Bank which was deposited

in the account of the complainant for encashment but the same



got bounced due to insufficient fund.

Learned counsel appearing on behalf of the petitioner submits that petitioner has not committed any offence in the manner alleged. Learned counsel further submits that from perusal of complaint, it is evident that there was money transaction between the parties and the petitioner had taken loan from the complainant which was not returned, therefore, at best petitioner can be said to have committed a breach of contract and it cannot be said to be a criminal breach of contract. Learned counsel further submits that there is a separate provision under the N.I.Act for bouncing of cheque under Section 138 N.I.Act, which is bailable.

On the other hand, learned counsel appearing on behalf of the O.P.No. 2 vehemently opposes the prayer for anticipatory bail and submits that petitioner with intention to cheat and deceive the complainant has misappropriated the amount of the complainant and did not return the same and the cheque given by the petitioner has bounced due to insufficient fund.

Having regard to the submissions made by the parties and taking into consideration the fact that cheque given by the petitioner has bounced for which cognizance under Section 138 N.I.Act has already been taken by the learned Magistrate, as



such I am inclined to grant anticipatory bail to the petitioner.
Accordingly, provisional bail granted by order dated 05.07.2019
to the petitioner is hereby confirmed and the bail bond furnished
by the petitioner in the court below shall be treated to be bond
furnished pursuant to this order.

(Anil Kumar Sinha, J)

sujit/-

U		T	
---	--	---	--

