

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.66612 of 2018

Arising Out of PS. Case No.-435 Year-2018 Thana- PUPRI District- Sitamarhi

Nabonath Jha S/o late Loknath Jha R/o Village- Koreyahi, P.S. Sursand,
District- Sitamarhi, At Present R/o near Block Road, Pupari Main Gate, P.S.
Pupari, District- Sitamarhi.

... .. Petitioner

Versus

1. The State Of Bihar
2. Shiv Kumar Mishra, S/o Late Radha Kant Mishra, Resident of village
Panchayat Janakpur Road, P.S. Pupari, District Sitamarhi

... .. Opposite Parties

Appearance :

For the Petitioner : Mr.Bimlesh Kumar Pandey, Advocate
For the State : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 22-02-2019 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 406 and 420 of the Indian Penal Code and
Section 138 of the Negotiable Instrument Act registered in
connection with Pupari P.S. Case No. 435 of 2018.

3. It is submitted that the petitioner has been falsely
implicated and the ingredients of the offence alleged under the
provisions of the Indian Penal Code are not made out inasmuch as
even on the informant's own showing, the cheque had been issued in
repayment of the alleged loan. As a matter of fact, the amount of two
cheques had been repaid as part reconsideration for purchase of land
through the informant after an amount of Rs. 50,000/- and Rs.
58,000/- had been transferred to the informant's account through
bank. The accusation under Section 138 of the N.I. Act is bailable in
nature apart from the fact that the same has been invoked not through
complaint and without prior notice, contrary to the provisions of the
N.I. Act. The petitioner claims clean antecedents.



4. Learned APP assisted by learned counsel for the informant appears and has been heard. It is submitted on behalf of the informant that there is no agreement in connection with the purchase of land through the informant

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Pupari at Sitamarh in connection with Pupari P.S. Case No. 435 of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and with further conditions --

(i) That one of the bailors of the petitioner shall be a close relative.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain personally present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

BT/Chandran

(Vikash Jain, J)

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