

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75776 of 2018

Arising Out of PS. Case No.-4354 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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S. M. Askari Imam Son of Late S.M. Ghulam Mujtaba, resident of AMC Munawarah Palace, Flat No. 402, 4th Floor Near Samanpura Enclave, A.G. Colony Road, Samanpura, Raja Bazar, P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rukhsana Perveen, aged about 39 Years, Wife of Late Md. Sabbir, resident of Millat Colony, P.S.- Phulwari Sharif, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Singh, Adv.
For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

3 14-03-2019 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest for the offence alleged under Section 420 and 406 Indian Penal Code and Section 138 of the Negotiable Instruments Act registered in connection with Complaint Case No. 4354(C)/2017.

3. It is submitted that the petitioner has been falsely implicated and in any event the dispute between the parties relates entirely to a business transaction of civil nature. It is further submitted that against the claim of Rs. 6.65 lakhs paid by the petitioner through three cheques which were subsequently dishonoured. The complainant also wrongfully



took possession of basement car parking no. C-6, which fell to the share of the petitioner in accordance with Memorandum of Understanding (MOU) dated 27.04.2017 and for which the petitioner had written a registered letter dated 21.08.2017 to the complainant. The complaint has been filed thereafter on 09.10.2017. The petitioner was accused in Gandhi Maidan P.S. Case No. 240/2010 in which however, he has been acquitted.

4. Learned counsel for the complainant appears and opposes the anticipatory bail petition, submitting that the amount of Rs. 6.65 lakhs is admittedly due from the petitioner.

5. Be that as it may, having regard to the entirety of the facts and circumstances, in the event of petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the abovenamed petitioner 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 the learned Sub-Judge XII-cum-A.C.J.M., Patna in connection with Complaint Case No. 4354(C)/2017, subject to the conditions as laid down under Section 438(2) Cr.P.C. and also subject to the following further conditions:

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



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

(iii) That the petitioner shall co-operate 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.

(iv) 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.

(Vikash Jain, J)

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