

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43364 of 2019

Arising Out of PS. Case No.-40 Year-2019 Thana- MOTIHARI TOWN District- East
Champaran

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SUDHIR KUMAR @ SUDHIR KUMAR SHRIVASTWA, Male, aged about
40 years, S/o Harihar Prasad R/o village- New Gopalpur, P.S.- Town Motihari,
District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pradeep Kumar Singh, son of Ramsiyawar Singh, resident of village New
Gopalpur (West), P.S. Motihari Town, P.O. Motihari, District East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Sharan
For the Opposite Party/s : Mr. Surendra Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 27-11-2019 Heard learned counsel for the petitioner as well as

learned A.P.P. alongwith learned counsel for O.P.No.2.

Petitioner has resiled from an undertaking having at

his end whereunder he offered to return back the amount

whatever been received by him. This happens to be the conduct

of the petitioner.

It has been submitted at the end of the petitioner that

wrong forum has been chosen by the informant as, for bouncing

of his cheque, complaint is to be filed under the N.I.Act, in spite

thereof police case has been instituted. Further more, it has also

been submitted that the story happens to be improbable in the

background of the fact that such huge transaction would not



have occurred without any chit of paper. Absence of paper is indicative of the fact that the institution of the instant case is only to coerce the petitioner to accede with the demand of the informant. More over, it happens to be commercial dispute and so, the informant should have instituted money suit for recovery of the amount. Also submitted that from the allegation as has been flashed under the written report, it happens to be out and out civil cause and so, no offence under sections 406, 420 I.P.C. is made out. This case would not have been instituted for an offence punishable under section 138 of the N.I.Act. Consequent thereupon, the petitioner is entitled for anticipatory bail.

Learned A.P.P. alongwith learned counsel for O.P.No.2 has submitted that reverting back from the earlier undertaking itself suggests dubious character of the petitioner. Further more, it has also been submitted that from the allegation itself it is evident that the petitioner stood as a broker and he anyhow succeeded in procuring such huge amount on behalf of the landlord who, on contact, disclosed that the petitioner had not paid a single farthing. That being so, it was not a commercial transaction rather, with a dishonest intention the petitioner succeeded in duping Rs.17 lacs.



That being so, the prayer for anticipatory bail of the
petitioner is rejected.

(Aditya Kumar Trivedi, J)

Surendra/-

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