

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No. 46251 of 2019**

Arising Out of PS Case No.-70 Year-2019 Thana- PARSA BAZAR District- Patna

Ravi Shankar Gupta, aged about 35 years (Male), Son of Dinesh Prasad Gupta, a Resident of Village - Adalipur, P.S.- Bihta, District- Patna. At present Karcha Road, Ward No. 10, Danapur, P.S.- Danapur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                            |   |                                  |
|----------------------------|---|----------------------------------|
| For the Petitioner/s       | : | Mr. Harish Kumar, Advocate       |
| For the State              | : | Mr. Jharkhandi Upadhyay, APP     |
| For the Informant/OP No. 2 | : | Mr. Pramod Kumar Singh, Advocate |

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN**  
**AMANULLAH**

**ORAL JUDGMENT**

**Date : 11-12-2019**

Heard learned counsel for the petitioner; learned APP for the State and learned counsel for the informant, who has *suo motu* appeared.

2. The petitioner seeks bail in Parsa Bazar PS Case No. 70 of 2019 dated 04.03.2019 instituted under Sections 406, 420 of the Indian Penal Code and 138 of The Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act').

3. The petitioner is accused of getting into a business deal with the informant and the cheque of Rs. 16,00,000/- not being honoured, as he had instructed the Bank to stop payment.



4. Learned counsel for the petitioner submitted that the criminal case is patently an abuse of the process of the Court. It was submitted that in the FIR itself, business dealing between the parties has been admitted and it has also been said that a cheque of Rs. 16,00,000/- was given by the petitioner to the informant, of which encashment was stopped. It was submitted that the said dispute being purely civil in nature, the informant should have moved before the Civil Court in money suit. It was further submitted that for an allegation under Section 138 of the NI Act, no criminal case is maintainable as only a complaint case can be filed. Learned counsel submitted that the petitioner has already been granted provisional bail earlier by order dated 30.07.2019, after being in custody for almost three months.

5. Learned APP fairly submitted that the matter relating to business dispute and of money transaction has to be settled before the Civil Court of competent jurisdiction.

6. Learned counsel for the informant submitted that the cheque issued by the petitioner has been dishonoured. However, by a query of the Court as to how for such allegation a criminal case is maintainable, when the settled law is that only a complaint can be filed, learned counsel was not in a position to satisfy the Court.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the provisional bail granted to the petitioner earlier by order dated 30.07.2019, stands confirmed.

8. The application stands disposed off.

**(Ahsanuddin Amanullah, J.)**

Anand Kr.

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