

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46419 of 2019

Arising Out of PS. Case No.-123 Year-2017 Thana- MOTIHARI TOWN District- East
Champaran

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Pankaj Kumar Singh, S/o Lalbabu Singh, R/o village- Babu Tola, P.S.-
Harsidhi, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Advocate
For the State	:	Mr. Uday Chand Prasad, APP
For the Informant	:	Mr. Madhurendra Kumar, Advocate

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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. Learned counsel for the petitioner is permitted to
make correction in paragraph no.12 of the application with
regard to date of custody. Let the same be done in course of the
day.

3. The petitioner seeks bail in connection with
Motihari Town PS Case No.123 of 2017 dated 26.02.2017
instituted under Sections 420, 406 and 506 of the Indian Penal
Code and 138 of the Negotiable Instruments Act (hereinafter
referred to as the 'N I Act').



4. The allegation against the petitioner is of fraudulently not returning the money of the informant with whom he was in business dealing and lastly of three cheques having been dishonoured by the bank totalling rupees thirty seven lakhs.

5. Learned counsel for the petitioner submitted that the First Information Report under Section 138 of the NI Act is not maintainable as it can only be in the form of a complaint. It was further submitted that from the entire reading of the First Information Report, it is an admitted position that it is a business dispute involving money, for which the remedy is by moving the Civil Court in a Money Suit. It was submitted that for such purely civil case, filing of criminal case is an abuse of the process of the Court. It is further submitted that the petitioner is in custody since 07.04.2019.

6. Learned APP submitted that the petitioner is alleged to have issued cheques which have not been honoured. However, on the proposition as to how First Information Report is maintainable under Section 138 of the N I Act, learned APP fairly submitted that the same is not permissible in law.

7. Learned counsel for the informant submitted that the petitioner having issued cheques in his favour, justice



demands that the money be returned to him. Learned counsel further submitted that the allegation is also with regard to criminal breach of trust and cheating.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bond of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, East Champaran, Motihari, in Motihari Town PS Case No.123 of 2017.

9. The application stands disposed off.

(Ahsanuddin Amanullah, J)

J. Alam/-

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