

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14633 of 2020

Arising Out of PS. Case No.-824 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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RAJESH KUMAR S/o Krishna Kumar @ Krishna Singh R/o Village-Bauk,
P.S.-Punpun, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shashi Kumar son of Binod Prasad R/o Village- Rahimpur, PS- Parsa Bazar,
District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Satish Kumar

For the Opposite Party/s : Mr.Raj Ballabh Singh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 2 03-07-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard Sri Ajay Kumar Mishra, the learned counsel for the petitioner and Sri Ashok Kumar, the learned APP appearing for the State.

This is an application for grant of anticipatory bail in connection with Complaint Case No. 824(C) of 2018 registered for the offence punishable under Section 406 of the Indian Penal Code and



Section 138 of the N.I. Act.

The allegation is regarding the complainant having given a sum of Rs. 5,00,000/- to the petitioner herein in the month of March, 2017 for the purposes of enabling him to do some business, however subsequently, when the complainant demanded the said sum of Rs. 5,00,000/-, the petitioner used to always assure him that he would return the money and lastly, on 2.1.2018, the petitioner had given a cheque bearing No. 699422, drawn on Punjab National Bank, Patahi Branch, Patna to the complainant, however, upon depositing the same in the account, the same has stood bounced.

The learned counsel for petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case. It is further submitted that the complainant, in the month of July, 2018, had snatched a sum of Rs. 51,000/- and a blank cheque from the petitioner herein for which the petitioner has filed a complaint case bearing Complaint Case No. 399(C)



of 2018 before the learned court of SDJM, Masaurhi, Patna on 19.7.2018 against the complainant herein and the said cheque has been deposited by the complainant in his account resulting in the same having bounced. It is thus submitted that at best, the dispute in question is civil in nature and the petitioner may file appropriate complaint under Section 138 of the Negotiable Instrument Act, however, no case is made out under Section 406 of the Indian Penal Code.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the records from which it is apparent that the complaint in question has already been entertained by the learned court of ACJM 8, Patna and vide order dated 1.11.2018, sufficient materials have also been found by the learned court below to proceed under Section 138 of the Negotiable Instrument Act, which is a bailable offence. This Court finds that prima facie,



as far as consideration of the present anticipatory bail petition is concerned, minuscule evidence is available on record so as to make out a case under Section 406 of the Indian Penal Code, thus, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-VIII, Patna in connection with Complaint Case No. 824(C)/2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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