

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.63582 of 2019**

Arising Out of PS. Case No.-570 Year-2019 Thana- KOTWALI District- Patna

1. PANKAJ AGRAWAL S/o Chand Bihari Agrawal Resident of 802-B, White House, Budh Marg, P.S.- Kotwali, District- Patna
2. Chand Bihari Agrawal S/o Late Shankar Lal Agrawal Resident of 802-B, White House, Budh Marg, P.S.- Kotwali, District- Patna

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate Ms. Soni Srivastava, Advocate
For the State	:	Mr. Lalan Kumar, APP
For the Informant	:	Mr. Sandip Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

8 02-09-2020 Heard Mr. Chitranjan Sinha, learned Senior Counsel assisted by Ms. Soni Srivastava learned counsel for the petitioner, Mr. Lalan Kumar, learned A.P.P. for the State and Mr. Sandip Kumar, learned Advocate who has entered appearance on behalf of the informant.

Petitioners in the present case are seeking pre-arrest bail in connection with Kotwali P.S. Case No. 570/2019 registered for the offence under Section 341, 342, 323, 354, 355, 406, 420 of the Indian Penal Code pending in the court of learned learned Chief Judicial Magistrate, Patna.

Learned Senior Counsel for the petitioners submits that it is a case of false implication of the petitioners on account



of greed of the informant and the whole allegation against the petitioners are baseless. The petitioners are said to be a family in the business of jewelries for many years and they have established their name in the business.

Learned Senior Counsel has further submitted that admittedly the informant happened to be a known customers of the petitioners and she had given some jewelries in the shop of the family of the petitioners for repair which were duly repaired and handed over to her on different dates which would be evident from the various receipts enclosed as Annexure '2' series.

Learned Senior Counsel has then submitted before this Court that the petitioner no. 1 has also lodged a case being Kotwali P.S. Case No. 571/2019 dated 27.06.2019 against the informant and her staff under Section 448, 341, 342, 323, 504, 506, 379/34 of the Indian Penal Code. Copy of which is enclosed as Annexure '3' to the present application. It is submitted that it is the informant who is rather harassing the petitioners and their family members and she had come to the house of the petitioners on 01.07.2019 and 03.09.2019 which has been informed to the I.G. of Police (Annexure '4').

In paragraph '3' of the petition though statement has



been made that petitioners have no criminal antecedents, on being questioned by filing a supplementary counter affidavit on behalf of the informant saying that the petitioners have got at least six cases in which either cognizance have been taken and they have been summoned or that the cases filed against them are pending for hearing, learned Senior Counsel has submitted that in the six cases mentioned in the supplementary counter affidavit the petitioners have not received any summon, however petitioner no. 1 has received one summon in a case under Section 138 N.I. Act being complaint case no. 4570/2019 pending in the court of Ms. Ritu Kumari, learned Judicial Magistrate - 1st Class, Patna filed by one Shalu Agrawal. It is submitted that inadvertently this case was not mentioned in paragraph '3'.

Learned A.P.P. for the State has opposed the prayer for pre-arrest bail of the petitioner. It is submitted that the Hon'ble Apex Court has on many occasions held that only because there is a business dispute between the parties a criminal proceeding cannot be set at naught. Learned A.P.P. submits that the cases is still under investigation and from the First Information Report it would appear that the allegations against these petitioners are that when the informant had gone to the house of these



petitioners to demand her jewelries and to clear the cheques which had been issued to her, she was assaulted by the staffs of the petitioners at the instance of the wife of petitioner no. 2. It is submitted that the fact that the daughter of this informant has filed four complaint cases for the dishonour of cheques being Complaint Case No. 3536C/2019, Complaint Case No. 5122/2019, Complaint Case No. 1118/2020 and Complaint Case No. 9221/2019 all under Sections 138 N.I. Act, some of them are under Sections 406, 420 and 120B I.P.C. read with Section 138 N.I. Act prima facie shows that the allegations made in the F.I.R. that the informant was demanding clearance of the cheques for which when she had gone to the house of the petitioners she was assaulted cannot be rejected at the outset. It is, thus, submitted that considering the totality of the facts and circumstances of the case finding support from the complaint cases which have now come in the supplementary counter affidavit the petitioners do not deserve privilege of anticipatory bail.

Mr. Sandip Kumar, learned counsel for the informant has opposed the prayer for pre-arrest bail of the petitioners. It is submitted that in paragraph '3' of the present petition the petitioners have made categorical statement that they have no



criminal antecedents but it is not true. It is because the criminal antecedents were being suppressed he had to file a supplementary counter affidavit. He has pointed out that in one complaint case no. 2500C/2019 (Archana Devi Vs. Pankaj Agrawal) cognizance has been taken under Section 406 IPC and 138 N.I. Act for dishonour of cheque of Rs. 5 lakhs and this case is at the stage of appearance. In this connection he has enclosed screenshot of the official website of district court. It is then pointed out that in another Complaint Case No. 2501C/2019 (Pawan Kumar Goyal Vs. Pankaj Agrawal) again summon has been issued under Section 406 IPC and 138 N.I. Act. This is supported by screenshot of the case status available on the website of the district court (Annexure 'C' & 'D' to the supplementary counter affidavit). Then comes the four complaints filed by the daughter of this informant, all are again supported by screenshots of the website of the district court.

It is submitted that the allegations made in the First Information Report that the informant had gone to the house of the petitioners looking for clearance of the cheques and then she was assaulted is prima-facie evident from the materials on the record and hence considering the fact that the petitioners are not only duping the present informant rather others also by issuing



cheques which are getting dishonoured, the conduct of the petitioners are such that the discretion of the court to grant anticipatory bail need not be exercised.

Learned counsel for the informant has further submitted that Annexure '2' which is showing the receipt of the jewelry is a forged and fabricated documents which may be easily found with the naked eyes if the signature of the informant present on the affidavit and the Aadhar Card is compared with the signature present on Annexure '2' series.

Having regard to the facts and circumstances of the case and after hearing learned Senior Counsel for the petitioners who has taken all efforts to impress upon this Court that it is nothing more than a business dispute at best and that the informant herself is facing several criminal cases, on finding that the fact that four complaint cases have been filed by daughter of this informant for the alleged dishonour of cheques which are supported by the screenshots and that the allegations against the petitioners are that this informant when went to the house of the petitioners demanding clearance of the various cheques which were issued by the petitioners she was assaulted by the staffs and further that there are several other cases of similar nature for the dishonour of cheques issued by these



petitioners, the conducts having been noticed by this Court, the court is of the considered opinion that the discretion to grant anticipatory bail to an accused need not be exercised in the present case. This court, therefore, refuses to grant anticipatory bail to the petitioners.

This application is, thus, dismissed.

In case the petitioners surrender and prays for regular bail in the court below within a period of four weeks, their prayer for regular bail shall be considered on their own merit without being prejudiced by the order of this court.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

