

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 83059 of 2019

Arising Out of PS Case No.-410 Year-2018 Thana- GARDANIBAG District- Patna

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Lalan Singh @ Lallan Singh, aged about 50 years, Gender-Male, Son of Late Kaiash Singh Resident of Mohalla- Kumhrar, P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shyamal Prakash, Advocate
For the Informant	:	Mr. Sunil Kumar Singh, Advocate
For the State	:	Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 07-01-2020

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 apprehends arrest in connection with Gardanibagh PS Case No. 410 of 2018 dated 17.09.2018 instituted under Sections 420 of the Indian Penal Code and 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act').

3. The allegation against the petitioner is that he had taken money from the informant for providing land and out of which for Rs. 1 lakh a cheque was given by the petitioner which was not honoured by the Bank.



4. Learned counsel for the petitioner submitted that there was business dealing with regard to sale/purchase of land between the parties and in fact, through the petitioner, the brother-in-law of the informant had bought some land but had not made full payment for which the petitioner was asking the informant and with *mala fide* intention not to pay, this false case has been instituted. It was further submitted that the FIR itself is illegal as law does not permit filing of a police case for offence under Section 138 of the NI Act. It was further submitted that in any view of the matter, the dispute is purely civil in nature relating to money for which the informant was required to file an appropriate case before the Civil Court by way of money suit. Learned counsel further submitted that in fact no cheque was given by the petitioner in favour of the informant and that is why the Court has not taken cognizance under Section 138 of the NI Act.

5. Learned APP submitted that there is allegation of the petitioner not returning the money of the informant.

6. Learned counsel for the informant submitted that the cheque given by the petitioner was not honoured.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six



weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Judge XIV cum Additional Chief Judicial Magistrate, Patna in Gardanibagh P.S. Case No. 410 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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