

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 23709 of 2020

Arising Out of PS. Case No.-625 Year-2017 Thana- KHAGARIA District- Khagaria

SANJAY KUMAR @ SANJAY KUMAR DAS Son of Ram Chandra Tanti @
Ram Chandra Das Prop. of S.S. Sharma Body builders , Resident of Village -
Maranga By Pass Tatma Toli Sudhin Chowk, P.S. K. Hat, District Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Nath Lal Rastogi Son of Late Surya Lal Rastogi Resident of Village
Murgia Chak, P.S. and District - Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr Ram Prawesh Kumar, Advocate
For the S t a t e	:	Ms Veena Rani Prasad, APP
For the Complainant	:	Mr Pramod Kumar Mallick, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

9 12-03-2021 Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner apprehends arrest in Khagaria Police
Station (for brevity, *PS*) Case No 625 of 2017 instituted for the
offence punishable under Sections 420, 406 of Indian Penal
Code and Section 138 of Negotiable Instruments (for brevity,
NI) Act 1881.

The informant has alleged that the petitioner, who
carries on the business of manufacturing body of truck, has
proposed that he would be constructing a body on a chassis of
an old truck within three months and if the complainant pays Rs
11 lacs in advance, then by the end of February, 2017, he would
deliver the newly made body of the truck to the complainant.
Allegation is that neither the fabricated truck has been delivered
nor the amount has been returned and that the petitioner had
given a cheque for Rs 11 lacs which also has bounced due to



insufficiency of funds.

It is submitted by the petitioner's counsel that the dispute is predominantly civil in nature. The complainant has approached the Criminal Court in an effort to coerce the petitioner to pay undue money. The complaint has not been made within the time specified under Section 142 (b) of NI Act, 1881 and the complainant has resorted to overwriting in the cheque which was originally for a sum of Rs 1 lac only. Petitioner is a small time mechanic and that it is a case of false implication. Submission is that there is bona fide outstanding against the petitioner only to the tune of Rs 30,000/- which the petitioner is ready and willing to pay.

Learned counsel for the complainant and the learned APP have opposed the prayer for bail.

Without prejudice to the rights of the parties which remains to be decided, prayer for anticipatory bail is allowed subject to payment of Rs 30,000/- by way of demand draft drawn in favour of the complainant. The payment should be made within two weeks from today.

Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks from today, be released on anticipatory bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Khagaria in Khagaria PS Case No 625 of 2017 subject to the conditions as laid down under Section 438 (2) of Criminal Procedure Code and also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also



undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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