

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 31929 of 2020

Arising Out of Complaint Case No.-1175 Year-2019 Thana- SARAN COMPLAINT CASE
District- Saran

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Awdhesh Kumar Yadav, Male, Age about 56 years, Son of Baidhnath Yadav, Resident of Village/ Mohalla- Kopa South Tola, PS- Kopa, District- Saran at Chapra. At Present Divisional Store in-Charge S.T.D Bharat Sanchar Corporation Limited, PS- Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate
For the State : Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-03-2021

Heard Mr. Nawal Kishore Singh, learned counsel for the petitioner and Mr. Manoj Kumar, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Complaint Case No. 1175 of 2019 dated 22.04.2019, instituted under Sections 420/406 of the Indian Penal Code and Section 38 of the Negotiable Instruments Act, 1881.

3. The allegation against the petitioner is that the cheque which was given by him to the complainant for an amount of Rs. 1,00,000/-, was not honoured by the Bank on the ground that the signature did not tally.



4. Learned counsel for the petitioner submitted that the amount has been fully paid to the petitioner, which would be obvious from various transactions in the Bank account of the clerk of the complainant. Learned counsel submitted that prior to the complaint case being filed, he had already filed informatory petition stating that the cheque in question has been stolen. It was submitted that the petitioner does not have any criminal antecedent.

5. Learned APP submitted that the defence of the petitioner that he had already paid the money cannot be looked into as there is presumption in law that the amount for which the cheque was issued was due to the complainant. It was further submitted that if at all the cheque was stolen, the most important thing required to be done was to inform the Bank not to make payment, for admittedly at that point of time, the cheque had neither been presented nor there was any payment on the same. Thus, learned APP submitted that the mere fact that the petitioner had filed informatory petition clearly indicates that he had the intention to somehow not pay, by creating a ground/defence, as he had not intimated the Bank to stop payment.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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