

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38079 of 2020

Arising Out of PS. Case No.-3842 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Brajesh Kumar, male, aged about 42 years, S/o Sri Jai Prakash Upadhyaya,
R/o Village- M/S Herbal APS Pvt Ltd., Ground Floor, Deep Ganga Complex,
Ashok Rajpath, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Nishant Kumar, S/o Sri Kamleshwar Prasad Singh, Resident of- L2/31,PIT
Colony, Kankarbagh, P.S.- Patrakar Nagar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vishal Vikram Rana, Adv.
For the O.P. No. 2	:	Mr. Kamla Kant Singh, Adv.
For the State	:	Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 17-09-2021 Heard Mr. Vishal Vikram Rana, the learned

Advocate for the petitioner and Mr. Kamla Kant Singh, the

learned counsel for the complainant/opposite party No. 2.

The State is represented by the learned APP.

The petitioner seeks bail in anticipation of his

arrest in connection with Complaint Case No. 3842(C) of



2015 in which, cognizance has been taken against him under Sections 406, 504 and 34 of the Indian Penal Code.

The accusation in the complaint petition is that the complainant/opposite party No. 2 had taken loan from the friend of the petitioner of an amount of Rs. 4,00,000/- and as a surety, he had furnished few cheques. Despite the complainant/opposite party No. 2 having paid more than the amount which had been taken by him as loan, the cheques were not returned to him. It has further been alleged that the complainant demanded the return of the cheques. It has also been alleged in the complaint petition that the petitioner has encashed two of the cheques and has received Rs. 2,00,000/- and odd unauthorizedly. Seeing all this, the complainant/opposite party No. 2 issued instruction to his banker for stopping payments against the cheques issued by him.

The learned counsel for the petitioner has submitted that an absolutely false case has been lodged by the complainant/opposite party No. 2, who is contesting litigation with one Deepak Kumar Shaw @ Dipak Kumar



Shaw, who has filed a case under Section 138 of the Negotiable Instruments Act, 1881 against the complainant/opposite party No. 2.

Aforesaid Deepak Kumar Shaw @ Dipak Kumar Shaw has been granted anticipatory bail by a Bench of this Court *vide* order dated 27.06.2019 passed in Cr. Misc. No. 2125 of 2019.

The learned counsel for the complainant/opposite party No. 2 however has submitted that the prayer for anticipatory bail of the petitioner was rejected way-back in the year 2018, but the present application for bail was filed in the year 2020.

Regard being had to the nature of accusation and taking into account that another co-accused/Deepak Kumar Shaw @ Dipak Kumar Shaw has been granted the privilege of anticipatory bail, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount



each to the satisfaction of learned Addl. Chief Judicial Magistrate-VIII, Patna in connection with Complaint Case No. 3842(C) of 2015, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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