

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81062 of 2019

Arising Out of PS. Case No.-3194 Year-2018 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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SUNIL KUMAR SHARMA Son of Late Banwarilal Sharma Owner of M/S. Shakambri Textiles (Cloth Shop), Resident of Ghanshyampuri Market, Rossaraghat, Ward no. 12, Purani Chowk, P.O. and P.S.- Rossaraghat, District - Samastipur (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manikchand Gothwaliya Son of Late Champalal Gothwaliya Proprietor of M/S. Hari Prasad Dinesh Kumar (Wholesale Cloth Merchant), Resident of Suttapatti, P.S.- Town, District - Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Hansraj, Adv.
For the Opposite Party/s	:	Mr. Ram Priya Sharan Singh, APP
For O.P No. 2	:	Mr. Ajay Kumar Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

9 27-09-2021 Heard Mr. Hansraj, the learned counsel for the petitioner and Mr. Ajay Kumar Singh, the learned counsel for the complainant / opposite party no. 2. The State is represented by Mr. Ram Priya Sharan Singh, the learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Complaint Case No. 3194 of 2018 in which cognizance has been taken under Sections 406, 409 and 420 of the Indian Penal Code.



The accusation in the complaint petition is that the petitioner was given clothes with the understanding that he would deposit the sale proceeds to the complainant and if the clothes are not sold, the same shall be returned to him. It has been alleged in the complaint petition that only an amount of Rs. 1,85,000/- as against the sale proceeds of the clothes in question has been deposited by the petitioner. The balance amount has not been returned.

Mr. Ajay Kumar Singh, the learned counsel for the complainant / opposite party no. 2, however, has submitted that four cheques were issued by the petitioner which could never be encashed because there were no sufficient balance in his bank account.

For the aforesaid offence, no complaint has been lodged under Section 138 of the Negotiable Instruments Act.

Considering the afore-noted aspect of the matter, this Court had issued notice to the O.P. No. 2 and had granted provisional bail to the petitioner by order dated 11.12.2019.

After having heard the learned counsel for the



parties, this court is of the view that there is a dispute between the petitioner and the complainant and since the deception was not practiced on the complainant from the beginning of the transaction, none of the offences at least for the purposes of grant anticipatory bail, can at all be said to have been made out.

For the reasons afore-stated, the provisional bail granted to the petitioner vide order dated 11.12.2019, is hereby confirmed. He shall remain on the same bail bonds.

The petition stands disposed of accordingly.

(Ashutosh Kumar, J)

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