

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2846 of 2022

Arising Out of PS. Case No.-156 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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DR. SUBODH PRASAD @ SUBODH PRASAD SON OF DHRUV PRASAD R/O VILLAGE- BHATINIYA, P.S.- GHORASAHAN, DISTRICT- EAST CHAMPARAN

... .. Petitioner/s

Versus

1. The State of Bihar
2. BHOLA PASWAN SON OF LATE JIYALAL PASWAN R/O VILLAGE- BHATINIYA, P.S.- GHORASAHAN, DISTRICT- EAST CHAMPARAN

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate
For the Opposite Party/s : Mr. Arun Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 11-08-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Section 406 of the Indian Penal Code and Section 138 of the N.I. Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the complainant alleges that he had given Rs. 9 lakh before witnesses after mortgaging his land to the petitioner and when the money was demanded, the petitioner gave a cheque of Rs. 9 lakh by cheque no. 360285 drawn on the Branch of State Bank of India and when the same was produced before the Bank, but the same was



dishonour due to insufficient amount in the account, accordingly legal notices were sent and the complaint came to be instituted based on which cognizance under Section 138 of the Negotiable Instrument Act read with Section 406 of the I.P.C. is bailable.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, it is next submitted that prima facie no offence under Section 406 of the I.P.C. is made out, it is next submitted that even presuming what has been alleged in the complaint is true without admitting then at best the case of the complainant is that he had given Rs. 9 lakh to the petitioner, in lieu of which issued the cheque and the same bounced for which a complaint came to be filed, it is next submitted that, in the event, if the informant is able to prove his case in the trial he will either get the petitioner convicted or there are stages as per N.I. Act, where the case might get compromised based on payment of money as envisaged under the law, it is next submitted that offence under Section 138 of N.I. Act is bailable and since 406 of the IPC prima facie is not made out as no element of criminal breach of trust is made out from bare reading of allegation as alleged in the FIR.

Learned A.P.P. for the State opposes the prayer for



anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with East Champaran Complaint Case No. 156 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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