

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9942 of 2022

Arising Out of PS. Case No.-142 Year-2021 Thana- SABAUR District- Bhagalpur

Sunil Kumar Son of Bhikhari Singh Resident of Village - Digha, P.S. -
Dhangoi, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Sinha, Sr. Advocate
	:	Mr. Bhola Kumar, Advocate
	:	Mr. Vivek Gaurav, Advocate
For the State	:	Mr. Awadhesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 30-08-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

At the outset, learned counsel for the petitioner
submitted that at page no. 4 in paragraph no.12 of the bail
petition, inadvertently, date of custody has been wrongly typed
as '25.05.2021' instead of '24.05.2021'.

Accordingly, learned counsel for the petitioner is
permitted to make necessary correction during the course of the
day itself.

The petitioner seeks bail in connection with Sabour
P.S. Case No. 142 of 2021 registered for the offence under
Sections 406, 420, 504, 506 and 34 of the Indian Penal Code



and Section 138 of the Negotiable Instrument Act.

The accused/petitioner is named in the F.I.R. and is in custody since 24.05.2021.

As per the allegation set out through written complaint, three cheques, which were issued in favour of the informant by the petitioner for a total amount of Rs. 33 Lakh, were dishonoured on presentation before the bank, while raising the demand.

Learned senior counsel appearing on behalf of the petitioner submitted that, in fact, it was the informant, who asked for a loan. It is submitted that from perusal of the F.I.R. itself, it appears that case is exclusively guided by the provisions of Section 138 of Negotiable Instrument Act and lodging of the F.I.R. under Sections 406 and 420 of the Indian Penal Code is just appears a legal excuse to lodge the present F.I.R., which is otherwise not maintainable under the law. It is further submitted that there is no inducement and cheating, as per the F.I.R., as there is no document, which may suggest to advance a loan of Rs.33 Lakh to this petitioner. It is also submitted that, as per F.I.R., offence falls under the provision of Section 138 of the N.I. Act, where procedure is guided by the provisions contained in Section 142, which is related to a civil



law and was specifically made compoundable.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that it appears a matter related with dishonour of cheque, as per F.I.R.

In view of the facts and circumstances, as mentioned above, as offence alleged through F.I.R. appears to be dealt u/s 138 of the N.I. Act, where procedure is guided u/s 142 coupled with the fact that petitioner is in custody since 24.05.2021, let the petitioner, above named, is directed to be released on bail in connection with Sabour P.S. Case No. 142 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-VII, Bhagalpur/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Ankit/-

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