

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19031 of 2022

Arising Out of PS. Case No.-323 Year-2021 Thana- GANDHIMAIDAN District- Patna

RAJEEV RANJAN @ SRI RAJEEV RANJAN S/o Late Sital Prasad Singh
R/o Brahmpura naka Sector- 6, Vivah mandap Gali, Sanjay Cinema Road,
P.O. M.I.T., P.S. - Brahmpura, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Co-Operative Marketing Union Ltd. through its Managing Director having its office at Biscomaun Bhawan, West Gandhi Maidan, P.S. - Gandhi Maidan, Patna- 800001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Verma, Advocate
For the Opposite Party/s	:	Mr. Ajay Kumar Jha, A.P.P.
		Mr. Sumit Kumar Jha, Advocate
	:	Mr. Ashish Giri, Advocate
	:	Ms. Riya Giri, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 27-09-2022 Heard learned counsel for the petitioner, learned counsel appearing on behalf of the Biscomaun, and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 406 and 409 of the Indian Penal Code.

The informant alleges that the petitioner gave a post dated cheque as security to Biscomaun for wholesale of Kashmiri apple on the occasion of Chhath festival in October 2019, thereafter the petitioner was supplied Kashmiri apple on different dates by Biscomaun by truck for which



acknowledgment receipt was also obtained, it is next alleged that a total sum of Rs.37,76,183/- remained due with the petitioner as sale price of the apple, it is further alleged that the petitioner issued two cheques which were dishonored on account of insufficiency of funds in his account for which a notice through registered post was also sent to him but he did not pay the cheque amount though he assured for payment, it is next alleged that the petitioner intentionally issued the cheques with an intention to cheat and misappropriated the money of the informant knowing very well that there was no sufficient amount in his bank account.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the FIR it would manifest that the thrust of the allegation is regarding bouncing of cheques, it is next submitted that though the informant has alleged that an amount of Rs. 37,76,183/- was due with the petitioner in lieu whereof two cheques were issued as detailed in the FIR, but then it absolutely does not stand to reason that as to why the informant instituted the present FIR and why not a complaint under Section 138 of the N.I. Act. Learned counsel



further submits that from perusal of the FIR it would manifest that the FIR has been instituted under Sections 406, 409 and 420 of the Indian Penal Code as the informant was well aware of the fact that an FIR under Section 138 of the N.I. Act is not maintainable, it is next submitted that it absolutely defies all logic, wisdom and reasonable administrative behaviour that when cheques were issued and no complain came to be instituted for realizing the amount of the cheques, that in itself gives an impression that the informant was well aware of the fact that no such due was payable by the petitioner. Learned counsel further submits that had the informant really wanted to get the dues cleared then definitely he would have proceeded against the informant under Section 138 of the N.I. Act but failure on part of the informant to file a complaint against the petitioner, amply demonstrates that what the petitioner contends by way of defence in the present anticipatory bail application is true i.e., it is the Biscomaun which owes certain amount of money to the petitioner and the petitioner is not liable to make any payment and the cheques were issued not in lieu of any consideration but it was only by way of security.

Learned A.P.P. for the State and the learned counsel appearing on behalf of the Biscomaun oppose the anticipatory



bail application but are not in a position to rebut the submissions of the learned counsel for the petitioner that as to why no complaint was instituted if the informant was really interested in getting the money recovered, which amply demonstrates that no such amount was due payable by the petitioner to the Biscomaun.

Be that as it may, 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) each 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 Gandhi Maidan P.S. Case No. 323 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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