

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39227 of 2021

Arising Out of PS. Case No.-174 Year-2020 Thana- KHAJEKALA District- Patna

RAJ KUMAR Son of Jamuna Prasad Resident of Mohalla- Gurhatta in front
of Sanjay Press, P.S.- Khajekalan, District- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Harish Kumar, Adv.
For the Informant	:	Mr. Raj Kumar, Adv.
For the State	:	Ms. Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 19-01-2022 Heard learned counsel for the parties through video conferencing.

The petitioner has preferred this application for grant of regular bail in a case registered under sections 420, 406, 467 and 34 of the Indian Penal Code and section 138 of the N.I. Act.

As per the prosecution case, it is stated by the informant that as a result of cheating by the petitioner, the informant gave a sum of Rs.40 lacs to the petitioner. Through R.T.G.S., an amount of Rs.38.5 lacs was given on different dates to the petitioner. On the amount not being returned, on persuasion, assurances by the petitioner as also panchayati, Rs.7 lacs in cash and Rs.50,000/ by cheque was returned. The balance sum of Rs.31 lacs was paid by two cheques of Rs.16



lacs and Rs.15 lacs. However, the said cheques bounced. It is stated that the petitioner is guilty of criminal breach of trust and also cheated the informant.

It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case. From perusal of the F.I.R., it would transpire that no offence under any section of the Indian Penal Code is made out and at best a case under section 138 of the N.I. Act only is made out. The instant F.I.R. would not be maintainable in view of section 142 (1)(a) of the N.I.Act. The petitioner has remained in custody since 1.10.2020 and has no criminal antecedent.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. Learned counsel for the informant submits that from perusal of the order dated 22.2.2021 passed by the learned court below in B.P. no.94 of 2021, it would transpire that the petitioner had been granted bail by the learned trial court on the condition of his paying a total sum of Rs.6 lacs in installments as mentioned in the said order. Subsequently, the petitioner filed an application for modification of the said order which was rejected vide order dated 5.4.2021.

In reply, it is submitted by learned counsel for the



petitioner that learned counsel appearing on behalf of the petitioner had made submissions with respect to the petitioner agreeing to pay the amount of Rs.6 lacs in installments without the instructions of the petitioner. The petitioner is a poor man and not capable of making the said payment.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the allegations in the F.I.R., the contents of the order dated 22.2.2021 fixing installments for the petitioner to make payment of about 20% of the total amount and the petitioner not abiding by the same, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

(Partha Sarthy, J)

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