

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32220 of 2022

Arising Out of PS. Case No.-206 Year-2021 Thana- KALYANPUR District- East Champaran

AKHTAR HUSSAIN @ MD. AKHTAR HUSSAIN S/o- Late Isha
Mohammad Resident of Village - Shitalpur Tola, Hanumanganj, P.S. - Chakia,
District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Nafisuzzoha, Advocate
For the Opposite Party/s	:	Mr. Binod Kumar, APP
For the Informant	:	Mr. Manjeet Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 22-11-2022 Heard learned counsel for the petitioner, learned
counsel for the informant 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 504 of the Indian Penal Code read with Section 138 of the N.I. Act.

Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that he entered into an agreement for sale of land for Rs. 9 lakhs, further the entire consideration was paid to the petitioner but later petitioner refused to execute the sale deed and issued check of Rs. 8,50,000/- but the same bounced on presentation for encasement, it is next alleged that the accused



transferred Rs. 50,000/- in his account but still Rs. 8,50,000/- is due.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case and from perusal of the allegations as alleged in the FIR it would manifest that the dispute is purely civil in nature, it is further submitted that if the check bounced, the remedy was to file a complaint case in terms of Section 142 of the N.I. Act read with Section 2(d) of the Cr.P.C. but the informant instead of resorting to the remedies, as envisaged, has filed the present FIR only to coerce the petitioner into submission so that he pays under fear of arrest. Learned counsel further submits that *prima-facie* no offence under Sections 420 and 406 of the I.P.C. is made out for the present until and unless the same is proved in a duly constituted trial, in the event if the petitioner at this stage is sent to jail and the informant is not able to prove his case in the trial with respect to Sections 420 and 406 of the I.P.C. then the same would amount to travesty of justice as the period of incarceration of the petitioner cannot be compensated but then if petitioner is convicted in a duly constituted trial then he will serve the sentence but definitely by resorting to an FIR for coercing the petitioner into submission for paying the amount is



an abuse of the process of the court

Learned A.P.P. for the State and learned counsel for the informant oppose the prayer for anticipatory bail of the petitioner but are not able to meet the submissions of the learned counsel for the petitioner that informant has remedies available in civil law and institution of FIR is definitely an abuse of the process of the Court.

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 Court below 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 court below where the case is pending/successor court in connection with Kalyanpur P.S. Case No. 206 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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