

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41260 of 2022

Arising Out of PS. Case No.-116 Year-2022 Thana- KOTWA District- East Champaran

Rakesh Kumar Pandey S/O Ramesh Chandra Pandey R/o Village- Bangara,
P.S.- Kotwa, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Prem Kumar Jha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-11-2022 Heard learned counsel for the petitioner, learned
counsel appearing on behalf of the informant and learned
Additional Public Prosecutor for the State

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

The petitioner apprehends his arrest in a case
registered for the offence punishable under Sections 406, 420 of
the Indian Penal Code and Section 138 of the N.I. Act.

According to the prosecution, the petitioner is well
known to the informant from before and both are good friends
and there was money lending term between both the parties.
Rakesh Kumar Pandey runs a shop of Patanjali and for the
development of his business purpose, Rakesh Kumar demanded
Rs. 10 lakhs on assurance of the same will be returned upon



February 2022, on such assurance, informant has given Rs. 9,90,000/- to Rakesh Kumar on 30.07.2021 and manage from his other relatives, in token therefore, the petitioner has given a cheque of State Bank of India dated 03.03.2022 of Rs. 9,90,000/- which was presented in the bank on 03.03.2022 and the same was returned on 04.03.2022 after dishonour of the cheque. Thereafter, the informant called on mobile to Rakesh Kumar Pandey but the mobile was found switched off then on 09.03.2022 he send legal notice but the same was unanswered.

Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the present case is not maintainable and it is mandatory provisions of the law that in case of dishonour of cheque, the complaint should be filed against the accused persons but in the present case the informant has failed to file the complaint with regard to present occurrence. He further submits that Section 138 of N.I. Act is bailable and in the present case there is no offence of breach of trust and no case is made out under Sections 406 and 420 of the Indian Penal Code against the petitioner.

The learned counsel for the informant as well as learned Additional Public Prosecutor have vehemently opposed



the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, in the event of his arrest or surrender within a period of four weeks, be released on anticipatory bail on furnishing bail bond or Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Kotwa P.S. Case No. 116 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the Court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the Court below shall take step for



cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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