

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58804 of 2021

Arising Out of PS. Case No.-364 Year-2017 Thana- DUMRAO District- Buxar

1. MANOJ RAI Son of Suraj Rai Resident of Village - amdariya, P.s.- Ratsar (Rasra), Distt.- Ballia (U.P.)
2. Bipin Rai Son of Jaishankar Rai Resident of Village - Kanuvan, P.S.- Bhawarkol, Distt.- Gazipur (U.P.)

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramchandra Singh, Advocate

For the Opposite Party/s : Mr .Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 11-07-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406, 420, 467, 468, 471, and 34 of the Indian Penal Code read with Section 138 of Negotiable Instrument Act.

Learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and in the FIR there is no specific allegation against the petitioners of getting supply of oats and issuing cheque, it is next submitted that specific allegation is against co-accused Rishikesh Rai of issuing cheque who is proprietor of Ritiyara Agro Food Pvt. Ltd,



Vaishali, Gaziabad and has also received oats worth Rs. 20 lakh from the informant, it is next submitted that only allegation against the petitioners is that they had come to the mill of the informant along with Rishikesh Rai. The learned counsel next submits that it absolutely does not stand to reason that how petitioners have been made an accused in the present case without any allegation, it is next submitted that if Rishikesh Rai had issued cheque then the remedy was not an FIR but a criminal complaint case in terms of N.I. Act.

Learned counsel for the petitioners submits that the present FIR is also not maintainable under Section 138 of the N.I. Act and *prima-facie* no offence under Section 406 or 420 of the IPC is made out against the petitioners, it is next submitted that similarly situated co-accused Sonu Rai and Daya Shankar Rai have been granted anticipatory bail order dated 14.08.2018 in Criminal Miscellaneous No. 32166 of 2018.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their 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) each 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 Dumraon (Naya Bhojpur O.P.) P.S. Case No. 364 of 2017 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

In the event, if the learned court below finds that process under Section 82 Cr.P.C. has been issued against the petitioners then the present order shall not be given effect to.

(Satyavrat Verma, J)

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