

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68912 of 2021**

Arising Out of PS. Case No.-8 Year-2017 Thana- MOTIHARI TOWN District- East
Champaran

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SHAKIL AHMAD Son of Jahir Ahmad @ Jahir Resident of Village-
Chhatauni, Ward No. -18, P.S.- Chhatauni, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Madhurendra Kumar
For the Opposite Party/s	:	Mr.Dashrath Mehta, APP
For the Informant	:	Ms. Prem Sheela Pandey

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 25-04-2022 Heard the learned counsel for the petitioner, the

learned APP for the State and the learned counsel for the

informant.

The petitioner seeks bail in a case registered for the
offences under Section 406, 420, 467, 468, 120(B) of the Indian
Penal Code and Section 138 of N.I. Act.

The learned counsel for the petitioner submits that the
petitioner is in custody since 13.07.2021, charge-sheet has been
submitted and has antecedent of four cases and the informant
alleges that the petitioner is running a garment shop known M/s
Sundari Sari Shop and are known to the informant, further the
petitioner offered to sell a land which was accepted by the
informant for a total consideration of Rs. 40 lakhs and the



accused agreed to execute sale deed by 04.06.2015. It is further alleged that the informant paid Rs. 32 lakhs but the petitioner did not execute, further the accused returned Rs. 5 lakhs and gave cheque of Rs. 27 lakhs but the cheque bounced.

The learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case, it is submitted that out and out civil dispute has been given a colour of a criminal case, it is further submitted that even admitting what has been alleged is true in the FIR without accepting the same for the purposes of bail then the FIR could not have been instituted under Section 138 of the N.I. Act as the N.I. Act mandates a separate procedure for bouncing of cheque. The learned counsel further submits that even the complaint case does not contain any agreement entered in between the informant and the petitioner with respect to sell of land. The learned counsel further submits that if the informant is aggrieved then the informant should have gone for a civil remedy by filing a money suit for recovering the amount, criminal cases cannot be resorted to for settling civil dispute.

The learned counsel for the informant and the learned A.P.P. for the State oppose the bail application but is not able to meet the submissions of the learned counsel for the petitioner



that no money suit has been filed for recovering the amount and FIR is not maintainable with regard to bouncing of cheque as separate procedure has been envisaged under the N.I. Act.

Considering the fact the petitioner is in custody since 13.07.2021, charge-sheet has been submitted and taking into consideration the submissions made by learned counsel for the petitioner, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Motihari Town P.S. Case No. 08 of 2017 arising out of Complaint Case No. 2585 of 2016, with a condition that one of the bailor shall be the father of the petitioner (Jahir Ahmad @ Jahir).

The application stands allowed.

(Satyavrat Verma, J)

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