

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4259 of 2023

Arising Out of PS. Case No.-355 Year-2022 Thana- SHERGHATI District- Gaya

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SUNIL KUMAR S/O DWARIKA PRASAD Resident of Village- Roshanganj,
P.S.- Roshanganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. AMIT KUMAR S/O LATE KAILASH SINGH Resident of village- Naya Bazar, P.S.- Sherghati, District- Gaya.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Rabindra Kumar Priyadarshi, Advocate
For the Opposite Party/s :	Mr.Harendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 18-05-2023 Heard the learned counsel for the

petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Sherghati P.S. Case No. 355 of 2022 registered for the offences punishable under Section 406 of the Indian Penal Code and Section 138 of the N.I. Act.

The case of the prosecution, in brief, is that the petitioner took a loan of Rs. 15,00,000/- from the informant, however, he failed to repay the same and subsequently gave one cheque amounting to a sum of Rs. ten lacs and orally



stated that he would return the balance amount of Rs. five lacs, however, when the informant presented the said cheque of Rs. ten lacs before his bank, the same got dishonoured.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a clean antecedent. The learned counsel for the petitioner, at the outset, has submitted that the petitioner is ready and willing to deposit a sum of Rs. five lacs (50 percent of the amount of cheque which has got bounced), in order to show his bonafides and with a view to avail the privilege of anticipatory bail.

Per contra, the learned counsel for the informant has though vehemently opposed the prayer for grant of anticipatory bail but has not been able to show that apart from the aforesaid cheque amounting to a sum of Rs. 10,000,00/-, any other cheque has bounced, hence he submits that at least the amount of cheque in question which has been bounced be directed to be deposited.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the fact that *prima facie* the dispute in question is in the nature of civil dispute, inasmuch as it is alleged that there is an agreement in between the parties with regard to the aforesaid amount of Rs. 15,000,00/- having been given by the informant to the petitioner by way of loan, which is required to be enforced by approaching the Ld. Civil Court of competent jurisdiction apart from the fact that the petitioner is ready to deposit a sum of Rs. five lacs before the Nazarat of the learned Civil Court at Gaya, I deem it fit and proper to direct for release of the petitioner on bail, immediately upon deposit of the aforesaid sum of Rs. five lacs before the Nazarat of the learned Civil Court at Gaya, subject to such conditions as may be deemed fit and proper to be imposed by the learned court of Additional Chief Judicial Magistrate-1st, Shergahti,



District-Gaya in connection with Sherghati P.S.
Case No. 355 of 2022.

The petition stands disposed off on the
aforesaid terms.

(Mohit Kumar Shah, J)

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