

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25172 of 2023**

Arising Out of PS. Case No.-2762 Year-2018 Thana- PATNA COMPLAINT CASE District-  
Patna

=====

SACHIN KUMAR, S/O LATE RAMESH PRASAD, Proprietor of Maa Shitala Enterprises, Resident of Bari Path, Gandhi Chowk, Mahendru P.O.- Mahendru, P.S.- Pirbahore, Patna- 800006

... .. Petitioner/s

Versus

1. The State of Bihar
2. NIRAJ KUMAR ARYA, S/O SHRI SHIV RATAN KUMAR ARYA, Resident of Village- Choti Bazar, Mogalpura, Post- Jhauganj, P.S.- Khazkala, Patna.

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Nishant Kumar, Advocate  
For the Opposite Party/s : Mr.Ram Bilash Roy Raman, APP

=====

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

2      07-07-2023                      Heard learned counsel for the petitioner and learned  
  
APP for the State of Bihar.

The petitioner is apprehending his arrest in connection with Complaint Case No. 2762 of 2018 registered for offence under Section 406 of Indian Penal Code (hereinafter referred as “IPC”).

The allegation against the petitioner in the complaint case is that after entering into a rental agreement with the complainant in respect of Hydraulic Injection Machine at Rs.10,000/- (ten thousand rupees) per month, the payments have not been made. It is alleged that the cheque for the amount of



Rs.45,000/- (forty-five thousand rupees) which was issued by the petitioner through his wife has also been dishonoured. The learned trial court has taken cognizance of the offence under Section 406 of IPC.

Learned counsel for the petitioner submits that the allegations, even if taken at their face value, make out a predominantly civil dispute between the parties, based on an alleged agreement which never came into existence. Falsity of the allegations is evident from the fact that the agreement being relied upon incorporates an advance of Rs. 1,50,000/- (one lakh fifty thousand rupees) being paid by the petitioner whereas in the complaint, this amount has not been mentioned. The petitioner has no antecedents. The submission is that the complaint has also been lodged belatedly and, therefore, the offence under Section 138 of the Negotiable Instruments Act, 1881, for which cognizance was taken earlier, has subsequently been revised pursuant to decision of the learned Additional Sessions Judge XII, Patna, in Criminal Revision No. 385 of 2019 and now the case is pending only under Section 406 IPC.

Learned APP for the State has opposed the prayer for bail. It is submitted that the complaint makes out an offence under Section 406 of IPC.



Considering the rival submissions, the nature of allegations leveled in the complaint, which appear to be at variance with alleged agreement dated 15.04.2017, as also the clean antecedents of the petitioner, this Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

Petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned J.M., Patna, in connection with Complaint Case No. 2762 of 2018, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.



The observations above are not to be considered by the learned trial court for any other purpose as the same are for the limited purposes of grant of anticipatory bail to the petitioner.

(Madhuresh Prasad, J)

shashank/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

