

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29154 of 2023

Arising Out of PS. Case No.-370 Year-2019 Thana- PAHARPUR District- East Champaran

Gaurav Kumar, Son Of Late Sawaliya Sharan Resident Of Mohalla -
Bhawanipur, Zirat, P.S. - Chhatauni, Distt. - East Champaran

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar

For the Opposite Party/s : Mr.Md. Ataur Rahman

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 26-07-2023 1. Heard learned counsel for the petitioner and
learned APP for the State.

2. The petitioner seeks bail in anticipation of his
arrest in a case registered for the offences punishable under
Sections 384, 387, 406, 420/ 34 of the Indian Penal Code and
Section 138 of the N. I. Act.

3. The learned counsel for the petitioner submits that
the petitioner has antecedent of four cases and the informant
alleges that on account of friendship, an amount of Rs.4 Lacs
was given to Saurabh on 16.12.2018 and thereafter, an amount
of Rs.4 Lacs by cheques dated 27.12.2018 and 29.12.2018 was
also given. It is next alleged that thereafter, Saurabh gave a
cheque of Rs.4 Lacs on 31.07.2019 to the informant which on
presentation for encashment bounced on 16.12.2019.



4. The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is next submitted that the informant alleges that petitioner along with Saurabh cheated him of Rs.8 Lacs, but then, the cheque was not issued by the petitioner. It is next submitted that it is settled principles of law that an offence under Section 138 of the N. I. Act, if committed, then a complaint is maintainable and not an F.I.R. It is also submitted that Saurabh Kumar has been granted regular bail by the learned District Court based on compromise. The learned counsel further submits that no which further creates doubt with regard to the veracity of allegation in the F.I.R. the criminal antecedent is relevant factor while considering the anticipatory bail or regular bail, but then, the same cannot be the sole factor for consideration rather the allegations have also to be appreciated and in the present case, what is not dispute rather stands admitted is that petitioner had not issued the cheque in question and F.I.R. is not maintainable with regard to an offence under Section 138 of the N. I. Act.

5. Learned A.P.P. opposes the bail application.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below



within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Ms. Kumari Jyotsana, the learned Judicial Magistrate, 1st Class, Motihari, East Champaran in connection with Paharpur P. S. Case No.370 of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

