

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33137 of 2022

Arising Out of PS. Case No.-1390 Year-2019 Thana- GAYA COMPLAINT CASE District-
Gaya

=====

Lav Kumar @ Love Kumar, Son Of Late Ram Gobind Sharma Resident Of -
Sri Awadh Niwas, Nutan Nagar Beldari Tola, P.S.- Civil Lines, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Geeta Devi, Wife Of Late Yogendra Singh Resident Of Village- Bhikhanpur,
P.S.- Chandauti, District- Gaya. Presently Residing At Mohalla- Tilha
Mahabir Asthan, P.S.- Cilil Lines, District- Gaya.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Shivendra Prasad
For the State	:	Mr. Rabindra Kumar
For the Complainant	:	Mr. Ansul
		Mr. Anuj Kumar
		Mr. Aditya Pandey

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

14 01-08-2023

1. Heard learned counsel for the petitioner, learned
counsel for the Complainant 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
Section 406 of the I.P.C. and Section 138 of the N. I. Act.

3. The learned counsel for the petitioner submits that
the petitioner has antecedent of one case and the Complainant
alleges that petitioner being friend of her husband took bricks of
Rs.10 Lacs on credit for making construction of a school
building from her husband, who was owner of a brick-kiln.
Further, the petitioner issued cheques in lieu of the bricks taken,



but the cheques on presentation for encashment got dishonoured. Accordingly, legal notices were sent and thereafter, present complaint came to be instituted.

4. The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is not in dispute that petitioner and the husband of the complainant were friends. It is also submitted that the cheque, which was given to her husband was by way of security, there was no monetary dues. It is also submitted that the matter was referred for Mediation, but the Mediation failed as the petitioner is not accepting the liability that the cheque was issued for any consideration. It is next submitted that offence under Section 138 of the N. I. Act is bailable and Section 406 of the I.P.C. is not made out and the learned trial Court in a mechanical manner proceeded to take cognizance under Section 406 of the I.P.C. and 138 of the N. I. Act. It is next submitted that petitioner will contest the allegations in the complaint. It is also submitted that in the event, if the petitioner is acquitted in the trial, then what will happen, if the petitioner presently for entering into a compromise, pays the entire amount.

5. Learned A.P.P. along with learned counsel for the complainant opposes the bail application, but are not able to



rebut the submission of the learned counsel for the petitioner that offence under Section 138 of the N. I. Act is bailable.

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 Miss Neha Tripathi, the learned Judicial Magistrate-IIInd Class, Gaya in connection with Complaint Case No.1390 of 2019/ Tr. No.194 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	
---	--	---	--

