

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34774 of 2023

Arising Out of PS. Case No.-2647 Year-2020 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Pankaj Kumar S/O Arjun Prasad R/O Village-Hajiapur-Ward No.-27, P.S.-
Gopalganj, Dist.-Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Anup Kumar S/O Late Baliram Ji Prasad R/o Bhadkuiyan, P.S.-Barauli,
Dist.-Gopalganj

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shubhesh Pandey
For the Opposite Party/s : Mr.Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 22-08-2023 Heard learned counsel for the petitioner and the

State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 406, 34 of the Indian Penal Code and section 138 of the Negotiable Instruments Act.

3. Allegation against this petitioner is that in his account, there was credit of Rs. 100000/- by younger brother of the complainant Anup Kumar which transfer was allegedly made pursuant to the agreement for sale of 10 Katha 08 Dhurs land agreed to be sold for Rs. 37,00,000/- in between the complainant and co-accused Arjun Prasad and Binda Devi and



this petitioner happens to be the son of accused Arjun Prasad and the said amount of Rs. 1,00,000/- in the account of petitioner was transferred at the instruction of the accused persons including petitioner, but the said agreement was not executed in favour of the complainant. When the complainant demanded his money from the accused persons, six cheques were drawn by the co-accused Hemant Kumar of different amounts but the same was dishonoured.

4. It is submitted that petitioner is not the author of the cheques in question. Co-accused Hemant Kumar issued the cheques which got bounced due to insufficiency of fund. At best it is a case of breach of contract that does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of transaction. The dispute is purely of civil nature. Petitioner claims clean antecedent.

5. Considering the facts aforesaid, the petitioner above-named, in the event of his arrest/surrender before the court below within a period of six weeks from the date of receipt/production of a copy of this order, is directed to be enlarged 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 Additional Chief Judicial Magistrate XVI, Gopalganj in connection with Complaint Case No. 2647 of 2019/Tr. No. 1675/2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

vinita/-

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