

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38651 of 2023

Arising Out of PS. Case No.-350 Year-2017 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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UMESH KUMAR S/O SHREE RAM NARAYAN SAH R/O LIC 33, LIC Colony, Near Central School, Lohiya Nagar, P.S- Kankarbagh, Patna, Distt.- Patna, PIN Code- 800020, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shamir Shekhar Pathak S/O Late Chandrika Pathak R/O Vill.- Siswa, P.S- Malahi, Distt.- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bipin Bihari
For the Opposite Party/s : Mr.Pramod Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-07-2023 Heard the learned counsel for the petitioner and the learned A.P.P. for the State as also the learned counsel appearing for the complainant, Sri Manoj Kumar.

2. This is an application for grant of anticipatory bail in connection with Complaint Case No. 350 C of 2017, registered for the offence punishable under Section 406, 418, 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act, 1881.

3. The allegation is regarding the petitioner having taken a sum of Rs. 15,00,000/- from the father of the complainant for opening a coaching institute whereafter, he had issued two



cheques totalling to a sum of Rs. 14,00,000/-, in favour of the father of the complainant, however, on account of illness, the father of the complainant could not present the said cheques and in the meantime, he died, whereupon the said cheques were returned back to the petitioner, who again gave fresh cheques, out of which three cheques, totalling to a sum of Rs. 8,00,000/-, were presented by the complainant before his banker, however, the same were dishonoured.

4. The learned counsel for the petitioner submits 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 has further submitted that the petitioner is ready and willing to pay back the total amount involved, qua the cheques which have bounced i.e. totalling to a sum of Rs. 8,00,000/-, however, the same be permitted to be paid in four installments.

5. Per contra, the learned APP for the State and the learned counsel appearing for the complainant, Sri Manoj Kumar, have though vehemently opposed the prayer for bail, but have submitted that in case, the petitioner is ready to refund the amount of the dishonoured cheques, they do not have any objection, if the petitioner is granted the privilege of



anticipatory bail.

6. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record, though I deem it fit and proper to admit the petitioner to the privilege of bail, however, subject to payment of a sum of Rs. 8,00,000/-, in four monthly installments, to the complainant starting from 1st of August, 2023.

7. It is needless to state that the complainant shall provide his bank account to the petitioner within a period of one week from today, whereupon the petitioner shall pay a sum of Rs. 2,00,000/- to the complainant on or before 5th of August, 2023 and produce proof of such payment, before the learned Trial Court, whereupon he shall be admitted to the privilege of provisional anticipatory bail, subject to such terms and conditions as may be deemed fit and proper to be imposed by the learned Court of ACJM, Areraj in connection with Complaint Case No. 350 of 2017. It is further directed that the balance amount of Rs. 6,00,000/- shall be paid to the complainant in three installments, i.e. on or before 5th of every month, starting from the month of September, 2023 and upon payment of the total sum of Rs. 8,00,000/-, which in any case shall be paid, on or before 5th of November, 2023, the provisional anticipatory bail, to be granted



to the petitioner, shall be confirmed, otherwise the same shall be cancelled and the petitioner shall be taken into custody forthwith.

8. The present petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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