

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44865 of 2021

Arising Out of PS. Case No.-48 Year-2021 Thana- BIHARIGANJ District- Madhepura

CHANDAN KUMAR SINGH Son of Birendra Prasad Singh Resident of
Village- Chharrapatti, Ward No.05, Police Station- Uda Kishunganj, District-
Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Singh, Senior Advocate Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. Brajendra Nath Pandey, APP
For the Informant	:	Mr. Krishna Pd. Singh, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

18 03-07-2023 Heard learned senior counsel for the petitioner,

learned APP for the State and learned counsel for the informant.

2. This application for anticipatory bail arises

out of Bihariganj P.S. Case No.48 of 2021 registered for the

offence punishable under Sections 406, 409 and 420 of the

Indian Penal Code.

3. As per the F.I.R., the husband of the

informant namely, Sanjay Kumar Singh, was business partner of
the petitioner, who is a Government Contractor. It is alleged that
on 03.01.2020 the husband of the informant had given a cheque
of Rs.20,000/- in favour of petitioner for labour payment but,
the petitioner had manipulated the said cheque and modified the
date of cheque from 13.01.2020 to 13.09.2020 and also
modified the amount of cheque from Rs.20,000/- to
Rs.9,20,000/- with an intention to cheat the husband of the
informant. It is also alleged that thereafter the petitioner kept



mum with bad intention and when the husband of the informant sent a legal notice to the petitioner through his lawyer on 29.10.2020 for payment of his due amount of Rs.35,25,000/-, the petitioner sent his reply dated 26.11.2020 which has been received by the husband of the informant one day before lodging the F.I.R.

4. Learned senior counsel for the petitioner submits that the petitioner has falsely been implicated in this case. He further submits that each and every allegation made in the F.I.R. is concocted one. He also submits that the husband of the informant and petitioner were not business partners rather, the husband of the petitioner was working as clerk (Munsi) of the petitioner and used to supervise the construction and other work of the petitioner and the husband of the informant had no financial authority over the petitioner.

5. Learned senior counsel for the petitioner further submits that the date of occurrence is of 13.01.2020 and the present F.I.R. has been filed on 06.03.2021 i.e. after a delay of one year and two months of the alleged occurrence. He further submits that the present case has been filed at the instance of the husband of the informant, who had taken loan of Rs.10,00,000/- from the petitioner and the present F.I.R. is a



counter blast of Bihariganj P.S. Case No. 35 of 2021 filed by the petitioner against the husband of the informant. In the said F.I.R. it has been alleged that the husband of the informant was working as clerk (Munsi) of the petitioner and he had taken a loan of Rs.10,00,000/- from the petitioner. The said loan amount has been transferred by the petitioner in the bank account of the husband of the informant through two cheques dated 21.08.2020. It is also alleged that for returning the loan amount the husband of the informant has given a cheque of Rs.9,20,000/- and also assured to pay Rs.80,000/- within one month. When the said cheque bounced due to insufficient amount, the petitioner informed this fact to the husband of the informant and he assured him that he will pay the entire amount. It is also alleged that thereafter the husband of the informant threatened the petitioner of dire consequences.

6. Learned senior counsel for the petitioner further submits that the petitioner is a registered contractor (Grade-B) and has executed contract work under Rural Works Department, Work Division, Uda-Kishunganj and he has no partnership with anybody. He further submits that the legal notice dated 29.10.2020 sent by the husband of the informant was replied by the petitioner on 26.11.2020.



7. Learned senior counsel for the informant submits that the investigation of Bihariganj P.S. Case No.35 of 2021 has been concluded and the case has been found false and the Police has submitted final form exonerating the husband of the informant. He further submits that since the investigation of the present case is continuing, the petitioner may not be granted anticipatory bail as he has cheated the husband of the informant by manipulating the cheque issued by the husband of the informant.

8. After hearing learned senior counsel appearing for the parties, it appears that there is case and counter case between the parties. It is the case of the informant that her husband was the partner of the petitioner, who is a Government contractor whereas, the petitioner claims that the husband of the informant was working as his clerk (Munsi) and there is no financial transaction between them on account of any business relation. From the arguments of the parties, it seems that there were some monetary transactions between the parties and it is a commercial dispute between the parties.

9. Considering the aforesaid facts and also the nature of dispute between the parties, I am of the view that as the case is still being investigated now the petitioner need not be



arrested till the conclusion of the investigation.

10. Let the petitioner, above named, in the event of his arrest/surrender within six weeks from today in the Court below, be released on bail **during the period of investigation of the case** on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Uda-Kishunganj, District- Madhepura, in connection with Bihariganj P.S. Case No. 48 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

11. This is also subject to the condition that the petitioner shall cooperate in the investigation of the case and he present himself before the Police as and when required.

12. In case, the petitioner is exonerated in the case, he shall not be required to seek further anticipatory bail but in case, the charge-sheet is submitted against the petitioner then he will have to seek further anticipatory bail.

13. With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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