

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.50562 of 2023**

Arising Out of PS. Case No.-194 Year-2023 Thana- VAISALI COMPLAINT CASE District-  
Vaishali

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NAVEEN KUMAR @ NAWEEEN KUMAR SON OF RAMCHANDRA  
SINGH RESIDENT OF VILLAGE- ABABAKARPUR, PO- MANPUR, PS-  
NH BANGRA, DIST- SAMASTIPUR

... .. Petitioner/s

Versus

1. The State of Bihar
2. NITESH KUMAR SINGH SON OF SAMARJEET SINGH RESIDENT OF  
VILLAGE AND PO- AJAMPUR, PS- DESRI, DIST- VAISHALI

... .. Opposite Party/s

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**Appearance :**

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|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr. Baidya Nath Thakur, Advocate |
| For the Opposite Party/s | : | Mr. Bharat Bhushan, A.P.P.       |
| For the Complainant      | : | Mr. Rana Vikram Singh, Advocate  |

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

- 2      17-08-2023                      1. Heard learned counsel for the petitioner, learned  
A.P.P. for the State and learned counsel for the complainant.
2. The petitioner apprehends his arrest in a case  
registered for the offences punishable under Sections 406 and  
420 of the Indian Penal Code and Section 138 of the Negotiable  
Instruments Act, 1881.
3. Learned counsel for the petitioner submits that  
petitioner is a person with clean antecedent.
4. The complainant alleges that he is a transporter and  
thus was doing the work of carriage and petitioner is a  
contractor of road and building construction and thus were  
known to each other. It is further alleged that complainant



transported the construction material of the petitioner by his trucks to various places and petitioner issued a cheque of Rs.17,64,600/- on 17.12.2022 to the complainant in lieu of the work rendered but on presentation of the cheque for encashment the same was returned with an endorsement 'payment stopped', accordingly, the legal notice was sent but the same was not replied.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is further submitted that a commercial dispute has been given a colour of criminal case. It is next submitted that petitioner is the Managing Director of Sona Infracon Pvt. Ltd. a registered company of repute. It is also submitted that in order to establish the bona fides of the company at para 19 of the anticipatory bail application, it has been specifically pleaded about the turn over of the company and from perusal of the same, it would manifest that the company in the year 2018-19 had a turn over of Rs.17,52,25,857/-, in 2019-20 Rs.11,20,43,074/-, in 2020-21 Rs.22,02,13,446/- and for the year 2021-22 Rs.25,99,85,623/-. It is further submitted that on 11.03.2019 an agreement was entered in between the company and the complainant and the petitioner had issued one undated cheque to the complainant.



Learned counsel for the petitioner draws the attention of the Court to Annexure-3 (page 20) of the anticipatory bail application to substantiate his submission that the cheque was issued by way of security. It is further submitted that the petitioner has already paid an amount of Rs.25,50,000/- to the complainant in between 01.04.2019 and 29.08.2021 vide various bank transaction as against the transportation charge of Rs.13,47,147/- of road construction materials for the period 2019-20, the details of the payment has been detailed in para 10 of the anticipatory bail application. It is next submitted that on 29.09.2022 the petitioner served a notice to the complainant that he was paid in excess of his dues towards transportation charges but the complainant did not submit GST bill, complete mining challans, e-way bills and goods carriage challans, even the GST inputs have not been uploaded on the GST portals of the petitioner's company. It is also submitted that the complainant even issued several forged mining challans, some of which were returned to him. Learned counsel for the petitioner at the cost of repetition submits that the cheque was given by way of security and not for payment of any debt or liability. Learned counsel further submits that since an agreement was entered in between the complainant and the company of the petitioner as



such it cannot be alleged that petitioner had any intention of cheating. It is next submitted that it is not in dispute that payments have been made to the complainant but whether complete payments have been made in lieu of the work rendered or some payments still remain is a matter of accounting but definitely the same does not come within the purview of a criminal case. It is also submitted that even offence under Section 138 of the Negotiable Instruments Act is bailable but the learned trial court in a mechanical manner took cognizance under Section 420 of the Indian Penal Code read with Section 138 of the Negotiable Instruments Act.

6. Learned A.P.P. for the State and learned counsel for the complainant opposed the prayer for anticipatory bail of the petitioner but are not in a position to rebut the submission of the learned counsel for the petitioner that offence under Section 138 of the Negotiable Instruments Act is bailable and the dispute was commercial for which an agreement was entered in between the parties.

7. Learned counsel for the petitioner at this stage submits that the complainant instituted the present complaint case and his partner instituted another complaint case against the petitioner for bouncing of three different cheques and the



complaints were filed on the same day as such in the present anticipatory bail application at para 3 it has been recorded that petitioner is a person with clean antecedent.

8. 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 from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Complaint Case No. 194 of 2023 (Tr. No. 4205 of 2023), subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

**(Satyavrat Verma, J)**

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