

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50359 of 2022

Arising Out of PS. Case No.-412 Year-2021 Thana- COMPLAINT CASE District- Banka

Santosh Kumar Singh, S/O Manohar Prasad Singh Resident Of Village-Shastri Chouk, Ward No- 11d, Purani Bus Stand, P.O., P.S. And District-Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vishnudeo Prasad Singh, S/O Manohar Prasad Singh Resident Of Village-Shastri Chouk, Ward No- 11d, Nagar Parishad, Banka, P.O., P.S. And District- Banka.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Ranjan Kumar Jha
For the Opposite Party/s :	Mr.Ashok Kumar Singh
	Mr. Rajib Ranjan Jha

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 10 14-07-2023 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 Complaint Case No.412 of 2021 registered for the offences punishable under Sections 406, 420, 323, 504 of the Indian Penal Code and Section 138 of the N. I. Act.
3. The learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and the complainant alleges that he executed Power of Attorney in favour of Santosh Kumar Singh (petitioner) for selling a piece of land. Further, Santosh Kumar Singh (petitioner) on



15.11.2019, sold the land to Rinku Devi for Rs.10 Lacs. It is next alleged that Santosh Kumar Singh issued two cheques of Rs. Five Lacs each, but the same bounced on presentation for encashment.

4. The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. It is next submitted that complainant and petitioner are step-brother and the complainant had given a Power of Attorney to the petitioner for selling his land. It is next submitted that in the Power of Attorney itself, it was recorded that the price of the land should be Rs.9 Lacs and above. It is next submitted that since Power of Attorney was executed by the complainant in favour of the petitioner, as such, the complainant took two undated cheques from the petitioner by way of security.

5. The learned counsel for the petitioner next submits that from perusal of the complaint, it would manifest that the complainant himself alleges that he was ill and he was in need of money and he was asking for money from the petitioner, but the petitioner on pretext of COVID was not returning the amount. Further, after COVID, when the complainant asked the petitioner to return the amount, he issued two cheques of Rs.5 Lacs each, which on presentation for encashment bounced. The



learned counsel submits that two undated cheques were given by the petitioner to the complainant at the time of executing the Power of Attorney and the same was by way of security. It is further submitted that the complainant himself in the complaint states that he was ill and he was asking for money. It is further submitted that since the petitioner is step-brother of the complainant, as such, he used to give cash to the complainant for his treatment in presence of their mother. It is further submitted that petitioner has already given an amount of Rs.6,50,000/- to the complainant and now, only Rs.3,50,000/- is due, which the petitioner is willing to return.

6. The petitioner, in sum and substance, submits that he is willing to pay the legitimate dues of the complainant and not his fanciful demand. It is next submitted that the petitioner committed a mistake by not asking the complainant for returning the cheques when he was giving him cash amount.

7. The learned A.P.P. along with learned counsel for the complainant opposes the bail application and the learned counsel for the complainant submits that petitioner, right from the beginning, had intention to cheat, as such, Section 420 of the I.P.C. gets attracted. It is next submitted that if the petitioner had issued those cheques by way of security at the time of executing



the Power of Attorney, then the complainant would have encashed the same and would not have waited for so long. It is further submitted that it absolutely does not stand to reason that if the petitioner had given Rs.6,50,000/- by way of cash to the complainant, then why he did not ask the complainant to return his cheques or why no legal notice was issued to him that despite receiving Rs.6,50,000/-, he is keeping the cheques. It is next submitted that the petitioner by way of after thought has tried to make out a case.

8. Considering the submissions made by the learned A.P.P. along with learned counsel for the complainant, the Court is not inclined to extend the privilege of anticipatory bail to the petitioner.

9. Accordingly, the prayer for anticipatory bail of the petitioner stands rejected.

(Satyavrat Verma, J)

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