

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72731 of 2022**

Arising Out of PS. Case No.-416 Year-2020 Thana- COMPLAINT CASE District- Banka

RAJEEV KUMAR SINGH @ RAJIV KUMAR SINGH SON OF LATE
KISHORE PRASAD SINGH R/O MOHALLA- VIJAYNAGAR, P.S.-
BANKA, DISTT.,- BANKA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. SHAMBHU SHARAN SINGH SON OF LATE RANJIT SINGH R/O
VILL- KAKWARA, P.S.- BANKA, DISTT.- BANKA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar, Advocate

For the Opposite Party/s : Mr.Umeshanand Pandit, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 16-05-2023 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

This is an application for grant of anticipatory bail
in connection with complaint case no. 416 of 2020, in which
cognizance has been taken for the offence punishable under
Section 406 of the Indian Penal Code.

The case of the complainant, in brief, is that the
petitioner had taken a sum of Rs. 3,15,000/- for some urgent
work from the complainant, whereupon an agreement was also
entered into, however, when the complainant had asked the
petitioner to return back his money, the petitioner had issued a
cheque dated 05.02.2020 and had taken back the agreement in



question, however, when the said cheque was presented by the complainant before his Banker, the same was dishonoured.

The learned counsel for the petitioner submits that petitioner is innocent, has been falsely implicated in the present case and is having a clean antecedent. The learned counsel for the petitioner has further submitted that though the learned court of Judicial Magistrate 1st Class, Banka, by an order dated 23.07.2022, has summoned the petitioner by finding that a *prima facie* case is made out against him under Section 406 of the Indian Penal Code, however, the dispute in question is purely a civil dispute and moreover, as far as bouncing of cheque is concerned, the appropriate remedy lies under the provisions of the Negotiable Instruments Act or approaching the learned civil court of competent jurisdiction for recovery of the amount in question, nonetheless, no criminal offence is made out. It is also submitted that the petitioner's cheque book had been misplaced, for which he had also informed the Bank Manager, whereafter he got the account in question closed so that no illegal transaction can be made from the said account.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the



case, this Court finds that *prima facie*, the dispute in question is in the nature of a civil dispute and the informant is trying to give it a colour of a criminal offence to extract money from the petitioner and moreover, in case the cheque given to the informant has bounced, the informant is required to take recourse to the remedies provided for under Section 138 of the Negotiable Instruments Act, hence, *prima facie*, no offence, as alleged is made out *qua* the petitioner herein, thus, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the abovenamed petitioner, in the event of his arrest or 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 released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Banka in connection with complaint case no. 416 of 2020, subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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