

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72503 of 2022**

Arising Out of PS. Case No.-145 Year-2022 Thana- MADHUBANI TOWN District-
Madhubani

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GHAZANFAR HUSSAIN S/o Mohammad Zahoor S/o Mohammad Zahoor,
Proprietor of M/s Genius Cap Industries. R/o T-513-1 Gali Dargah Wali
Chamelian Road, Rani Jhansi Road, Near Fire Station, Delhi-110006.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. KP Singh, sr. Advocate Mr.Mukesh Kumar No1, H.Prasad, S.Kumar, Advocate
For the State for informant	:	Mr.Choubey Jawahar, Addl Public Prosecutor Mr. G.Yadav, A.Raj, R.Prakash, R.Kumar

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

8 19-09-2023 Heard learned counsel for the petitioners, the State
and the informant.

2. Petitioners apprehend arrest in a case registered for
the offence punishable under sections 420,406,468/120B of the
Indian Penal Code.

3. As per the prosecution case, at the time of
worldwide COVID pandemic, informant had got supply order of
water proof dead body bags but petitioner and other accused
persons erroneously received payment of Rs.54.60 lacs from the
BMSICL for supply of aforesaid goods and thus they cheated
the informant.

4. Learned counsel appearing for the petitioner denies



the allegation. He submits that the accused persons received order from BMISCL and made supply of water proof dead body bags and then received payment. He submits that though informant has alleged that firm of accused persons sold the prepared goods on high price to others, due to which supply order procured by him (informant) from BMSICL got cancelled on 15.4.2020, however till date no allegation or complaint has been made by the BMSICL against the accused persons with respect to the firm in question, except the present FIR. Moreover, allegation appears to be that of broker or agent and the allegation levelled by the informant may be of breach of contract which is a civil wrong and not a criminal act. Mere breach of agreement made in commercial transaction does not give rise to a criminal prosecution for cheating, unless fraudulent and dishonest intention is shown at the beginning of the transaction. Opposite party no.2 has got other remedy available in law.

5. Learned counsel for the State as well as the informant oppose the prayer for bail. Learned counsel for the informant submits that the petitioner has not brought on record any chit of evidence to show that under what agreement accused persons got supply order and received payment of Rs.54.60 lacs



from the BMISCL.

6. Considering the rival submissions of the parties and materials available on record, by which it is manifest that dispute in question is in the nature of civil dispute and FIR depicts that commercial transaction had taken place in between the parties, prayer for bail of the petitioner is allowed. In the event of arrest/surrender within six weeks from today, let the petitioner, mentioned above, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the court in seisin of the matter in Madhubani (Town) Police Station Case No. 145 of 2022, subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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