

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13162 of 2024

Arising Out of PS. Case No.-396 Year-2023 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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Amrit Lal Ram S/O Ram Bachan Ram R/O Village- Kalhua, P.S- Audhaura,
Distt.- Kaimur At Bhabua.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Baljeet Kumar S/O Late Subash Gond R/O Village- Koshdihra, P.O- Saitha,
P.S- Bhagwanopur, Distt.- Kaimur At Bhabua. At Present- Purab Phokhara,
Ward No. 23, P.O And P.S- Bhabua, Distt.- Kaimur At Bhabua.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Uday Singh
For the Opposite Party/s : Ms.Rita Verma

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 18-03-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 420 of the
Indian Penal Code and Section 138 of N.I. Act.

3. Learned counsel for the petitioner submits that in
mechanical manner, the cognizance is being taken under Section
420 of the IPC, whenever any case of bouncing of cheque is
instituted. It is next submitted that from perusal of the allegation
as alleged in the FIR, the thrust of the allegation is that in lieu of
work rendered by the complainant, the petitioner issued cheque
of Rs. 3,00,000/- (3 lakhs), which on presentation for



encashment bounced based on which the complainant filed a complaint before the learned trial court with regard to bouncing of cheque, but then the learned trial court apart from taking cognizance under Section 138 of the NI Act also took cognizance of offence under section 420 of the IPC, when in the nature of allegation as alleged in the FIR, *prima facie* no offence under Section 420 is made out. It is also submitted that in the event if in the trial the petitioner is able to prove that the cheque which was issued was not for any valid consideration in that event what will happen and if the OP No. 2 is able to prove his case before the learned trial court in that event he will get the relief, i.e., either the petitioner would go to jail and serve his sentence or would repay the entire money in accordance with law. It is further submitted that this perhaps explains why the offence under Section 138 of the NI Act was made bailable.

4. The learned APP along with the learned counsel appearing on behalf of OP No. 2 opposes the anticipatory bail application but are not in a position to rebut the submission of the learned counsel for the petitioner that in the event if the OP No. 2 is not in a position to prove his case before the learned trial court that the cheque issue was for a valid consideration in that event what happens and in the event in the trial it is proved



that the petitioner had issued the cheque for a valid consideration in that event he will face the consequences, further the specific submission made by the learned counsel appearing on behalf of the petitioner that offence under Section 138 of the NI Act has been made bailable is not rebutted.

5. 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 trial court 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 trial court where the case is pending/successor court in connection with Complaint Case No. 396 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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