

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42342 of 2024

Arising Out of PS. Case No.-5564 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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ASHUTOSH KUMAR SON OF LATE BHUNESHWAR PRASAD
SRIVASTAV PROPRIETOR OF M/S ELECTROKATE ENTERPRISES AT
B/1, JYOTI KUNJ, SAKET BIHAR, MITRA MANDAL COLONY,
ANISHABAD, POLICE STATION - PHULWARISHARIF, DISTRICT -
PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. BHAGTAWAT KUMAR SON OF LATE RAJESHWAR PRASAD
RESIDENT OF FLAT NO. 203, SHAMBHUNATH COMPLEX,
ABULAI SH LANE, NEAR KALI MANDIR, MACHUA TOLI, POLICE
STATION - KADAMKUAN, DISTRICT - PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Aryan Singh, Advocate
For the Opposite Party/s : Mr.Atul Chandra, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 10-07-2024 Heard learned counsel for the petitioner, the State as
also the complainant.

2. The petitioner is apprehending arrest in connection
with Complaint Case No. 5564 of 2022 instituted under
Section 420 of the Indian Penal Code and section 138 of the
Negotiable Instrument Act filed on 8.6.2022 by the
complainant, Bhagwat Kumar.

3. As per the complaint, the complainant alleged that
the accused was known to him and whenever he was in
requirement of the amount, the same was provided which he



used to return. In the month of August, 2021, the accused came to the complainant and wanted monetary help which followed payment of Rs. 7,50,000/- on 15.8.2021. He assured to make the payment in next six months.

4. As the period lapsed and he demanded the money, a cheque of Rs. 7,50,000/- was given on 25.3.2022 but the same bounced. This followed legal notice dated 26.3.2022 but the accused came to the house of the complainant alongwith other associates, misbehaved and threatened of dire consequences. Left with no alternative, firstly tried to lodge FIR but upon refusal of Kadamkuan Police Station, the complaint.

5. Learned counsel for the petitioner submits that there is no chit of paper to support the case/complaint that he has ever taken money. However, on query, about the release of the cheque, no forceful statement is coming forward.

6. Learned counsel appearing on behalf of the complaint on the other hand submitted that not once but twice the cheque was signed and handed over to the complainant's side, firstly in his name and later, in the name of his wife and before the same could be encashed, he used to request the Bank to stop the payment. This clearly show that he wanted to cheat the complainant under criminal conspiracy. He further submits



that the criminal angle is there inasmuch as upon service of legal notice, he alongwith his associates came and threatened of dire consequences.

7. The present case is not only the cheating of the amount under criminal conspiracy and/or bouncing of the cheque. The further allegation is that when the legal notice was served upon the petitioner, he chose to threat the complainant of dire consequence alongwith his associates.

8. The matter is of the year 2022 and two years later, he has chosen to seek legal remedy.

9. In that background, it would be appropriate that he surrenders and seek bail.

10. The anticipatory bail application stands rejected.

(Rajiv Roy, J)

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