

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44813 of 2024

Arising Out of PS. Case No.-221 Year-2023 Thana- RAXAUL District- East Champaran

Ajay Kumar @ Yogendra Das Son of Shiv Pasanna Das @ Shiv Prasanna Das, Resident of Mohalla - College Road, Raxaul, P.S.- Raxaul, District - East Champaran. Permanent Resident of Village - Khodwa, P.S.- Palanwa, District - East Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. Md. Muntjir Alam Son of Md. Jahir, R/O Mohalla - Bara Pareua, Ward No.- 16, P.S.- Raxaul, District - East Champaran.

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Shashank Shekhar, Advocate
For the Opposite Party : Mr. (Dr.) Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-07-2024 Heard Mr. Shashank Shekhar, the learned counsel for the petitioner, the learned counsel for the informant and Mr. (Dr.) Ajeet Kumar, the learned Additional Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since 30.05.2023, in connection with Raxaul P.S. Case No. 221 of 2023, FIR dated 08.05.2023, registered for the offences punishable under Section 420 of the Indian Penal Code and under Section 138 of the NI Act.

3. According to the prosecution case, the petitioner along with his father and brother and in presence of one



Makbool Ahmed took Rs. 8,50,000/- (Rupees eight lakhs and fifty thousand) under the pretext of building house and for security gave the informant a cheque of Rs. 8,50,000/- (Rupees eight lakhs and fifty thousand) bearing cheque no. 086734, dated 24.02.2023 of SBI, Raxaul Branch. It is further alleged that when the informant deposited the said cheque on 29.03.2023, the cheque got bounced due to insufficient balance. It is further alleged that the informant sent a legal notice to the petitioner on 10.04.2023, but till date the petitioner has not repaid his amount.

4. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. According the FIR, the cheque which was issued by the petitioner to the informant got bounced on account of insufficient balance in the petitioner. He further submits that in under Section 138 of the NI matter, the FIR is not maintainable and informant is required to file the complaint petition before the competent Court of law. He further submits that, although petitioner is ready to settle the dispute with the informant, however, he has not annexed the copy of the cheque with the present FIR. He lastly submits that the police after investigation has submitted chargesheet against the petitioner and the



petitioner is in judicial custody since 30.05.2023, more than a year.

5. Learned counsel for the informant and the learned APP for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that petitioner has issued the cheque in question to the informant and the same got bounced on account of insufficient balance. Apart from that, the petitioner carries four criminal antecedents, almost all of similar nature.

6. Considering the aforesaid facts and circumstances and mainly the facts that petitioner is ready to settle the dispute with the informant and the period of petitioner's custody, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Raxaul, East Champaran, in connection with **Raxaul P.S. Case No. 221 of 2023**, subject to the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two



consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the learned trial Court shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the learned trial Court shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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