

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49626 of 2022

Arising Out of PS. Case No.-468 Year-2019 Thana- SONEPUR District- Saran

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Ramesh Kumar Sharma Son Of Jagdish Sharma Resident Of Village -
Barbata, P.S.- Sonepur, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Bhishma Narayan Singh Son of Late Shiv Charan Singh Resident of
sidhnath Chowk, Sonepur, P.S.- Sonepur, District - Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kr Singh No.1

For the Opposite Party/s : Mr.A.G

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

9 22-01-2024 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in

connection with Sonepur P.S. Case No. 468 of 2019 dated

03.07.2019 registered for the offences punishable under

Sections 420 of the Indian Penal Code and Section 138 of the

N.I. Act.

4. As per the prosecution case, on 22.12.2017, the

petitioner and the co-accused persons demanded Rs. 4 lacs from



the informant, with a promise to return in February 2019. The informant gave them Rs. 1 lacs in cash and Rs. 3 lacs by cheque in the name of the petitioner. When the accused persons did not return the money, the informant went to the house of the petitioner. Further, the petitioner gave a cheque of Rs. 4 lacs but the said cheque was bounced. Subsequently, the informant went to the house of the co-accused persons to inform them. Thereafter, the accused persons including the petitioner assaulted him with fists and slaps.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. No case u/s 420 is made out against the petitioner. Learned counsel for the petitioner has relied on the judgment in **Praveen Kumar Vs. The State of Bihar in Cr. Misc. No. 25231 of 2011** in which it is stated that "*the mode that has been adopted for filing application under Section 138 is completely barred as Section 138 read with Section 142 of the N.I. Act provided the only mode for filing criminal case as complaint case. The lodging of Police Case is completely barred under Section 142 and says that no court shall take cognizance of offence punishable under Section 138 except upon a complaint.*"



6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Sonapur P.S. Case No. 468 of 2019, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner is liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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