

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66601 of 2023

Arising Out of PS. Case No.-966 Year-2020 Thana- GAYA COMPLAINT CASE District-
Gaya

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SANJIB KUMAR SINGH @ SANJIV KUMAR SINGH Son of Sri
Bhupendra Kumar Singh R/o vill - Dalki No. 1, Murli Chapra, P.S. - Dokti,
Distt. - Ballia (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt Sumita Devi Resident of Mohalla - Dakkhana Gali, Chand Chaura, P.s. - Vishnupad, Distt. - Gaya. She is permanent resident of vill - Bhikh Chapra, P.S. - Baria, Post - Raniganj, Distt. - Ballia (U.P)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Adv
		Ms. Nikita Mittal, Adv
For the Opposite Party/s	:	Mr. Ram Naresh Ray

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 22-03-2024 1. Heard learned counsel for the petitioner, Ms. Nikita Mittal, and learned A.P.P. for the State along with learned counsel for the OP No. 2.

 2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420 and 406 of the Indian Penal Code.

 3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the complainant. It is also submitted that the dispute is purely civil to which a criminal colour has been given. It is further submitted that from bare perusal of the allegation as alleged in



the complaint, it would manifest that the complainant alleges that petitioner is the brother of her daughter-in-law, as such, they are related and the petitioner was interested in purchasing a flat, but he was falling short of Rs. 3 lakhs, as such, he requested the complainant to loan the said amount on which the loan was given, but the petitioner, for reasons best known, was not returning the amount, but on persuasion, he issued a cheque of Rs. 3 lakhs, which on presentation for encashment bounced. It is next submitted that after the cheque bounced, her daughter-in-law requested the complainant not to institute a case relating to bouncing of cheque, as such, the case was not instituted.

4. The learned counsel submits that thereafter, the present complaint case came to be instituted in which cognizance has been taken in a mechanical manner under Sections 420 and 406 of the IPC. It is further submitted that if the complainant instituted the instant criminal case, then nothing prevented her from instituting a case under NI Act when the cheque had bounced. It is thus submitted that no cheque was ever issued by the petitioner, which on presentation for encashment, bounced, it is next submitted that criminal courts are not meant for recovering financial dues, the complainant has remedies available in law for recovering the monetary dues. It is



submitted at the cost of repetition that the instant complaint case has been instituted only with a view to coerce the petitioner into submission to part with the loan amount which the complainant claims that she has given, but the petitioner refutes that any loan was given to him by the OP No. 2. It is thus submitted that in a duly constituted civil proceeding, the petitioner will also get an opportunity to rebut the submissions of the complainant.

5. Learned APP for the State along with learned counsel appearing on behalf of OP No. 2 opposes the prayer for anticipatory bail of the petitioner but are not in a position to rebut the submission made by learned counsel for the petitioner that no case was instituted under Section 138 of the NI Act and even presuming what has been alleged is true without admitting then the dispute is purely civil to which a criminal colour has been given.

6. 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. 966 of 2020, subject to the conditions as laid down under
Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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