

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77364 of 2023

Arising Out of PS. Case No.-454 Year-2022 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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Md Asharaf Ali Khan S/O Md Taslim Khan Village- Talkhapur, Ward No. 10,Ps. Punaura, Dist. Sitamarhi (Bihar).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kristopher Raaj S/O Late Arun Raaj Chairman, Secret Heart School, Nahar Chowki, P.S. & Dist. Sitamarhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shankar Kumar, Advocate

For the Opposite Party/s : Ms. Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

02. In the present case, the petitioner is apprehending his arrest in connection with Complaint Case No. C-1/454/2022, in which cognizance has been taken for the alleged offence under Sections 406 of the Indian Penal Code & Section 138 of the Negotiable Instruments Act.

03. As per prosecution case, the petitioner issued a cheque for an amount of Rs. 5,83,000/- which got dishonoured. The allegation against the petitioner is that he issued the cheque to the complainant in lieu of money taken from the complainant for sale of some land.



04. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The complainant has not stated anywhere in what mode he made payment to the petitioner. Further, cognizance has been taken in this case under Section 406 of the IPC and under Section 138 of the Negotiable Instruments Act, but there is no ingredients under Section 406 of the IPC in this case. Learned counsel further submits that a blank cheque was given to the complainant towards payment of tuition fee of children of the petitioner in good faith, but the complainant filled up the amount on higher side and the same was deposited for encashment. Learned counsel further submits that, moreover, the offence under Section 138 of the Negotiable Instruments act is bailable and there is no ingredient for offence under Section 406 of the IPC. The petitioner has got no criminal history.

05. Learned A.P.P. for the State opposes the prayer for anticipatory bail.

06. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the main allegation of dishonour of cheque against the petitioner and no other serious allegation against him, let the petitioner above named, in the event of his arrest or surrender before the



court concerned within a period of eight weeks from today, 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 learned Chief Judicial Magistrate, Sitamarhi/concerned court in connection with Complaint Case No. C-1/454/22, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

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