HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 8230/2024

Sanjay Bhati Son of Shri Ratan Singh Bhati, aged about 46 Years, Resident of Village Chiti, Police Station Dankor, Dist. Gautam Buddh Nagar, U.P Pin 203202. (At Present Accused Petitioner Confined in Central Jail Bharatpur).

----Petitioner

Versus

Indrajeet Singh Son of Shri Mansingh, aged about 49 Years, Resident of Atal Bandh Gate, Near Police Choki, Gawariya Sikh Mohalla, Police Thana Atal Bandh, Bharatpur (Raj).

----Respondent

For Petitioner(s)	:	Mr. Ajay Sharma Ms. Shilpa Sharma
For Respondent(s)	:	Mr. Vivek Choudhary-PP

JUSTICE ANOOP KUMAR DHAND

Order

09/12/2024

1. By way of filing of this criminal misc. petition, a challenge has been led to the impugned order dated 20.05.2023 passed by the Judicial Magistrate No.3, Bharatpur by which the charges have been framed and the substance of acquisition has been recorded against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act of 1881').

2. Counsel for the petitioner submits that the petitioner was not the Director at the relevant time when the cheque- in-question was issued and subsequently, dishonored. Counsel submits that under these circumstances, the petitioner is not liable to be prosecuted for the offence under Section 138 of the N.I. Act. In support of his case, he has placed reliance upon the cheque-in-

question, which bears the signatures of one, Karan Pal which was dishonored on presentation before the Bank. Counsel submits that under these circumstances, interference of this Court is warranted.

3. Heard and considered the submissions made at Bar and perused the material available on record.

4. Now the question which remains for consideration before this Court is, whether the petitioner was the Director of the Firm or not at the relevant time when the cheque- in-question was issued and subsequently dishonored, this may be a defence of the petitioner which can be taken into account by the learned trial Court at the appropriate stage of trial but this cannot be a ground of his discharge. It is the settled proposition of law that defence of the accused cannot be overlooked at this stage, accordingly, the present writ petition stands disposed of, granting liberty to the petitioner to take all available defence before the Trial Court at the appropriate stage.

5. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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