

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13378 of 2025

Arising Out of PS. Case No.-1164 Year-2016 Thana- GAYA COMPLAINT CASE District-
Gaya

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Umesh Prajapat Son of Shyamlal Prajapat R/O Village- Nauranga, P.S.-
Muffasil (Gaya), District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajit Kumar Son of Bhartu Bind -Shashi Vastralya- Gaya Gaya Nawada
Road, Manpur, P.S.- Muffasil (Gaya), District- Gaya at Present residing at
Mohalla- Abgila Devi Asthan, P.S.- Muffasil (Gaya), District- Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary
For the Informant	:	Mr. Akash Kumar Mishra

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 20-08-2025 1. Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out
of Compliant Case No. 1164 of 2016, disclosing offences
under Sections 406/379/341/323/504 of the Indian Penal
Code.
3. The prosecution case, as per the complaint filed by
opposite party no. 2, is that the complainant gave a sum
of Rs. 7,80,000/- to the petitioner on 31.01.2015 for
hiring the shop to be constructed by the petitioner and
agreement to this effect was prepared between the parties.



However, the petitioner did not handover the shop within the stipulated time. After some time, the complainant demanded his money back from the petitioner and after several requests, the petitioner gave three cheques in favour of the complainant, but the same dishonored.

4. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case due to oblique motive. Moreover, the petitioner was ready to let out the shop in favour of the complainant, but subsequently the complainant refused to take the shop on lease on the pretext that he has found another shop at a better place. He next submits that the complainant demanded his money back and accordingly, the petitioner returned the amount to the tune of Rs. 7,00,000/- to the complainant in presence of the witnesses on 12.06.2016. The petitioner then requested the complainant to return his cheques, but the complainant on the pretext that the cheques have been misplaced did not return the same. The photocopy of the receipt showing that the complainant received a sum of Rs. 7,00,000/- from the petitioner is annexed at Annexure-2 to this application. Learned counsel further submits that the complaint under Section



138 of the Negotiable Instruments Act was not filed against the petitioner, cognizance has only been taken under Section 406, 379, 341 and other allied sections of the Indian Penal Code.

5. On the other hand, learned counsel for the complainant opposes the prayer for anticipatory bail and submits that the petitioner has taken huge amount i.e. Rs. 7,80,000/- from the complainant with a promise to let out his shop on lease, however, the petitioner failed to handover the shop to the complainant and misappropriated the amount paid by the complainant. He next submits that the complainant is denying the receipt submitted by the petitioner, which has been annexed at Annexure-2.
6. Having regard to the submissions made on behalf of the parties and taking into consideration the nature of allegation and the fact that no case under Section 138 of Negotiable Instruments Act has been filed by the complainant against the petitioner and prima facie there appears to be dealing regarding tenancy, I am inclined to grant the petitioner privilege of anticipatory bail.
7. This application is, accordingly, allowed.
8. Let the petitioner, above named, in the event of his arrest



or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya, in connection with Complaint Case No. 1164 of 2016, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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