

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20986 of 2025

Arising Out of PS. Case No.-551 Year-2024 Thana- GAYA KOTWALI District- Gaya

Vivek Kumar Gupta S/o- Late Prakash Chandra Gupta R/o- Rangbadhur
Road, Near Kali Mandir, Telbaigh, District - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rashid Izhar, Advocate

For the Opposite Party/s : Mr. Anil Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 23-04-2025 Heard Learned Counsel for the petitioner, Learned
Counsel for the Informant and Learned APP for the State.

2. The present criminal miscellaneous application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'the BNSS, 2023') for grant of anticipatory bail to the petitioner who apprehends arrest in connection with Kotwali P.S. Case No.551 of 2024, lodged on 22.10.2024, under Sections 316(2)/318(4) of the Bhartiya Nyay Sanhita, 2023.

3. As per the prosecution, it has been stated that the wife of the informant had paid ten lakhs rupees, out of which five lakhs had been paid through bank instrument and rest five lakhs rupees had been paid through cash. The petitioner has assured to return the amount within six months but it has not



been returned. A cheque of rupees ten lakhs had been provided as security but upon presentation the cheque has been bounced back due to insufficient fund. In this regard, legal notice has been sent but arrears of money could not be returned.

4. Learned Counsel for the petitioner submits that the petitioner is innocent and has committed no offence. Counsel submits that the petitioner accepts that five lakhs rupees has been received by him and he could not return the same on time. Learned Counsel for the petitioner submits that ten lakhs rupees has been paid as security amount and here in the present case without taking permission from him his Cheque has been produced. Learned Counsel further submits that for cheque bounce matter complaint case ought to have been filed under the N.I. Act and here in the present case FIR has not been lodged under Section 138 of the N.I. Act. Counsel submits that the criminal antecedent of the petitioner is clean. Counsel further submits that petitioner is ready to fulfill all the conditions whatsoever shall be imposed upon him. Counsel submits that he has paid Rs.1,77,500/- to the informant, which is apparent from Annexure-2. He is ready to pay the rest amount out of total five lakhs which he has received through bank instrument.



5. Learned Counsel for the informant opposes the prayer for bail and submits that petitioner has taken rupees ten lakhs only, due to which he has given a cheque of rupees ten lakhs as security which was bounced back due to insufficient fund in the petitioner's account. Hence, bail may not be granted to him.

6. Learned APP for the State opposes the prayer for anticipatory bail of the petitioner and submits that the present case has been lodged under Sections 316(2) and 318(4) of the Bhartiya Nyay Sanhita, 2023 only and not under Section 138 of the N.I. Act.

7. In the present facts and circumstances of this case, let the above named petitioner be released on **provisional anticipatory bail**, in the event of arrest or surrender before the learned Court below within a period of 4 weeks from today, on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) as mentioned in Section 2(1)(d) of the BNSS, 2023 to the satisfaction of Chief Judicial Magistrate, Gaya, in connection with Kotwali P.S. Case No. 551 of 2024, subject to the conditions as laid down U/s 482(2) of the BNSS, 2023.

8. It is made clear that the petitioner shall pay Rs.3,22,500/- in the account of the informant within 60 days



from today and furnish receipt thereof in the Trial Court. The Trial Court after receiving the receipt shall confirm the provisional bail of the petitioner. If petitioner shall not pay the aforesaid amount to the petitioner within 60 days from today, the Trial Court shall not confirm the provisional anticipatory bail of the petitioner.

(Dr. Anshuman, J)

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