

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48954 of 2024

Arising Out of PS. Case No.-630 Year-2020 Thana- TURKAULIYA District- East
Champaran

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MD. NAUSHAD ALAM S/O MD. ISHAQUE @ MD. ISAHAK ANSARI @
MD. ISSHAK ANSARI R/O VILLAGE- ISLAMPUR TIKAITA, P.S-
TURKAULIYA, DISTT.- EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Prasad, Adv.
For the State	:	Mr. Anant Kumar 1, APP
For the Informant	:	Mr. Pramod Kumar Pandey, Adv.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 07-08-2025 Heard learned counsel for the petitioner, learned APP for
the State and learned counsel appearing for the informant.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 420, 406
of the Indian Penal Code and Section 138 of the N.I. Act.

3. The allegation in the FIR instituted based upon a
complaint which was sent under Section 156 (3) of the Cr.P.C. is
that an amount of Rs. 1,50,000/- was transferred from the
account of the informant to the account of the petitioner as
advance money for supplying sand and other building materials
and further an amount of Rs. 3,00,000/- and odd was also given
to the petitioner in cash. However, it was alleged that the



petitioner never made the supply of the sand or the other building materials to the informant and also did not return his money.

4. Learned counsel for the petitioner, at the outset, submits that the entire case arises out of business transaction and is thus purely civil in nature. The informant has tried to give a criminal colour to an essentially civil dispute. It is further submitted that the petitioner denies of having taken any amount in cash and even with regard to Rs. 1,50,000/- which was through account transaction, the petitioner has already supplied the materials and hence, no criminal offence would be made out against him.

5. Learned APP for the State and learned counsel appearing for the informant, however, oppose the prayer for anticipatory bail on the ground that a total amount of Rs. 4,50,000/- was given to the petitioner by the informant and in lieu of the same, the petitioner had even given a cheque of the same amount to the informant which subsequently was not honoured and hence, he has committed an offence of cheating and after submission of charge sheet, cognizance has also been taken.

6. At this stage, learned counsel for the petitioner, in



order to show his bona fide, has offered to make the payment of Rs. 1,50,000/- which was paid by the informant to the petitioner by way of bank transaction within a period of two months. He also draws the attention of this Court towards the fact that vide order dated 12.07.2024, the petitioner has already been granted the privilege of provisional anticipatory bail by a co-ordinate Bench of this Court.

7. In view of the above-mentioned fact that the petitioner has been granted the privilege of provisional bail by a co-ordinate Bench of this Court vide order dated 12.07.2024, the learned Court below is directed to confirm the provisional bail to the petitioner upon production of proof of payment of Rs. 1,50,000/- within two months. However, it goes without saying that in case the petitioner fails to make the payment of the said amount within the stipulated period, the provisional bail granted to the petitioner shall stand vacated.

8. Accordingly, this application is disposed of.

(Soni Shrivastava, J)

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