

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47657 of 2025

Arising Out of PS. Case No.-1290 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

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Gopal Mahatha @ Gopal Mahtha, S/o Late Ghantali Mahatha, R/o House No. 29 (Near Kali Mandir), Aatmoriya, P.O.- Malhara, P.S.- Mohanpur, District- Deoghar, State- Jharkhand, and at present R/o- Amgarhiya (Choudhary Chowk), P.O.- Malhara, P.S.- Mohanpur, District- Deoghar, State - Jharkhand
... .. Petitioner/s

Versus

1. The State of Bihar
2. Virendra Yadav S/o Late Guli Yadav C/o Girdhari Gop, R/o Mohalla- S.K. Nagar (Chakaram), P.O.- G.P.O., P.S.- Buddha Colony, Distt- Patna
... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 30-07-2025 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 406 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the complainant alleges that petitioner offered the complainant to purchase 7 Katha of land out of which 5 Katha of land belongs to the petitioner and rest 2 Katha belongs to one Hriday Pasi and it was agreed that 7 Katha of land shall be sold for a consideration



of Rs.18.5 lakhs, accordingly, the complainant transferred an amount of Rs.14 lakhs in the account of Pappu Kumar and also gave Rs.4.5 lakhs in cash to Pappu Kumar. Thereafter, the complainant enquired and came to know that the land in question was not saleable, accordingly, the complainant protested on which twelve cheques were issued in his favour by the petitioner of an amount of Rs.1 lakh each and the petitioner assured that rest Rs.5 lakhs shall be paid in cash but the cheques on presentation for encashment bounced.

4. Learned counsel appearing on behalf of the petitioner submits that after the cheques bounced, the complainant gave legal notice to the petitioner in pursuance whereof again cheques were issued and the complainant presented the same for encashment and got cheque worth Rs.4 lakhs encashed, as such, the grievance of the complainant which remains to be addressed is only with respect to Rs.8 lakhs but then it is submitted that offence under Section 138 of the Negotiable Instruments Act is a bailable offence and in the nature of allegation as alleged in the complaint no offence under Section 406 of the Indian Penal Code is made out when the complainant has issued the cheque in lieu of the money he received. It is further submitted that if the complainant is able to



prove his case before the learned trial court, the petitioner will suffer the consequences.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, let the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/Successor Court in connection with Patna Complaint Case No. 1290(C) of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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