

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76756 of 2024

Arising Out of PS. Case No.-244 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

Binod kumar @ Vinod Kumar Son of Late Ramudgar Mahto R/O Vill.-
Parndh, P.S.- Dalsinghsarai, Dist.- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandradeep Prasad Son of Late Mahgu Mahto R/O Vill.- Pachpaika, P.S.-
Ujiyarpur, Dist.- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Lakshmindra Kumar Yadav, Adv.
For the State	:	Mr. Tarun Prasad Mandal, APP.
For the Complainant	:	Mr. Surya Narayan Roy, Adv.

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 24-06-2025 Heard learned counsel for the petitioner, learned APP for
the State and learned counsel for the complainant.

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 N.I. Act. However, after enquiry, the cognizance has been taken only under Sections 420 of the Indian Penal Code and not under Section 138 of the N.I. Act.

3. The allegation in the complaint is that the complainant had paid an amount of Rs. 5,41,000/- to the petitioner for purchasing 5 *kathas* of land and an assurance was given that the rest amount of Rs. 3,00,000/- would also be paid. Subsequently,



the complainant came to know that the said land is disputed and hence, asked for return of the money and the petitioner, in lieu of the same, gave him cheque of Rs. 5,41,000/- which was returned on the ground that it was an old cheque.

4. Learned counsel for the petitioner submits, at the outset, that the petitioner has no land of 5 *katha* at village Parndh and neither in the complaint nor in the statement of the complainant on S.A., any description of the land concerned has been given. It is further submitted that the parties are known to each other from before and there had been money transaction between them frequently and it is only during such transaction that the petitioner had given a blank cheque to the complainant, but owing to the dispute with regard to the money, the said cheque was misused and the present case was filed. It is next submitted that no case under Section 420 of the Indian Penal Code would be made out in the facts of the case and there is no cognizance under Section 138 of the N.I. Act.

5. Learned APP for the State and learned counsel appearing for the complainant, however, oppose the prayer for bail and lay emphasis on the fact that the complainant has been duped of an amount of Rs. 5,41,000/- and controverts the allegation that the petitioner does not own a land of 5 *katha* at



the concerned site.

6. Taking into consideration the rival contentions and also considering that the present dispute arises out of a money transaction and the criminal processes cannot be used for recovery of money, I am inclined to grant the privilege of anticipatory bail to the petitioner. 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) with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with C.R. No. 244 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

(Soni Shrivastava, J)

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