IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79088 of 2024

Arising Out of PS. Case No.-1445 Year-2018 Thana- VAISALI COMPLAINT CASE District- Vaishali

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Anand Mohan Kumar @ Anand Mohan Kumar Singh S/o Braj Mohan Kumar R/o Pokhara Mohalla, Veer Kunwar Singh Colony, P.S. - town Hajipur, Distt.- Vaishali, Bihar

... ... Petitioner/s

Versus

1. The State of Bihar
2. Gurudayal Kumar Mishra S/o Late Chandrita Mishra R/o Mohalla - Mednimal, P.S. - Hajipur Town, Distt- Vaishali

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Randhir Kumar, Adv.
		Mr. Gyanendra Kumar, Adv.
For the State	:	Mr. Mithlesh Kumar Khare, APP.
For the Complainant	:	Mr. Ravish Mishra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL ORDER

6 12-05-2025 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 Sections 406, 420 of the Indian Penal Code and Section 138 of the N.I. Act.

3. The allegation made in the complaint is that the complainant had given a total amount of Rs. 8,16,700/- in cash on 01.03.2017 to the petitioner in presence of two witnesses and the petitioner handed over the signed cheques of Oriental Bank of Commerce and HDFC Bank to the complainant, however,

the said cheques eventually got dishonoured and the money was never returned.

4. Learned counsel for the petitioner submits that the petitioner runs a shop of R.O. Machine in which he earns a huge profit on each machine and the allegation against him is that he allured the complainant that if he invests an amount of Rs. 6,500/-, he would be returned an amount of Rs. 7,500/- in a period of three months. It is further submitted that the allegation made in the complaint itself would go to show that the petitioner and the complainant were entering into a business relationship and the complainant in order to enrich himself had agreed to give an amount of Rs. 8,16,700/-. The further submission is that the complainant is actually a broker/middleman who approached the petitioner for getting into this business and since he could not get the desired benefit, he has filed the present complaint. It has also been submitted that the cheques in question were not issued towards the discharge of any legal recoverable debt neither any debt or liability was in existence nor any agreement has been executed in respect of the said amount. In such nature of facts and circumstances, it is submitted that no offence under Sections 406 & 420 of the Indian Penal Code is made out against the petitioner.

5. Learned APP for the State as well as learned counsel for the complainant opposes the grant of anticipatory bail to the petitioner on the ground that he has fraudulently induced the complainant into making the investment and is not paying back his money and the cheques given by him have also bounced. By way of a counter affidavit, learned counsel for the petitioner has also pointed out that the petitioner had earlier also entered into such kind of a deal with another person and there also, a criminal case was instituted against him and hence, he is a habitual offender.

6. At this stage, learned counsel appearing for the petitioner, although not admitting his guilt, still offers that he is ready to make the payment of the total amount of four cheques, i.e., Rs. 1,78,200/- which have been annexed in the counter-affidavit. Learned counsel appearing for the complainant has also pointed towards the criminal antecedent of the petitioner of similar nature and in response to the same, learned counsel for the petitioner submits that out of three cases, in one case, the parties have entered a compromise and he has made the payment and insofar as the other two cases are concerned, the negotiations are still going on.

7. From the above-mentioned facts, it appears that the

petitioner and the complainant have got into a business relationship, however, without executing an agreement and the dispute between them has a civil colour and hence, the criminal course cannot be used to recover money.

8. In such view of the matter, 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 eight 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 learned Judicial Magistrate, First Class, Vaishali at Hajipur in connection with Complaint Case No. 1445 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023. However, it is made clear that the petitioner would produce a receipt of payment of amount of Rs. 1,78,200/- to the complainant at the time of furnishing of bail bonds.

(Soni Shrivastava, J)

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