

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80698 of 2024

Arising Out of PS. Case No.-220 Year-2023 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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Izhar Ali Son of Asagar Ali Resident of Village - Kuwar Bazar, P.S. -
Phulpoor, District - Varanasi (Uttar Pradesh)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anil Kumar Son of Shirlagan Singh Resident of Village - Navliya, P.O. -
Dighita, P.S. - Kochas, District - Rohtas

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar Pandey, Advocate
For the Opposite Party/s	:	Mr.Mohammed Arif, APP
For the O.P. No. 2	:	Mr. Raghunandan Kr. Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 23-04-2025 1. Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the opposite party no.

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2. The petitioner apprehends his arrest in connection
with Complaint Case no.220 of 2023 registered under sections
406 and 420 of the Indian Penal Code and section 138 of the
N.I. Act.

3. As per the complaint petition, petitioner had
purchased a vehicle from the complainant for a total amount of
Rs. 2 lakhs out of which Rs. 1 lakh was given in cash and Rs. 1
lakh was given through cheque. When the said cheque was
deposited in the Bank, signature made by the petitioner, did not



tally and hence, petitioner promised that the payment of the remaining amount of Rs. 1 lakh would be made in cash but he never made payment. Hence, the complaint.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. A bare perusal of the complaint itself would go to show that out of the consideration amount of Rs. 2 lakhs, the petitioner had paid Rs. 1 lakh in cash which has been admitted by the complainant. This fact in itself would go to show that there was no intention to cheat the complainant and as a matter of fact the petitioner had also given a cheque of remaining amount of Rs. 1 lakh as security and subsequently in lieu of the same, he had already made a payment of the remaining amount of Rs. 1 lakh in cash. The complaint had been filed under Sections 406 and 420 of the I.P.C and 138 of the N.I. Act but cognizance has been taken by the learned Magistrate under Section 420 of the Indian Penal Code. The petitioner has no criminal antecedent and undertakes to cooperate in the case/trial.

5. The application for anticipatory bail is opposed by learned A.P.P. for the State and learned counsel for the informant who submits that the informant has been defrauded by the petitioner as they have not returned the substantial



amount of money back to the informant as had been agreed upon.

7. Considering the rival contentions of the parties and also considering the fact that the dispute is civil in nature and the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing prayer for bail, as has been held by the Hon’ble Supreme Court in the case of ***Bimla Tiwari Vs. State of Bihar*** reported in ***(2023) 11 SCC 607***, it is directed that the petitioner, above named, in the event of their arrest or surrender before the learned Court below within a period of four weeks, be released on anticipatory bail in connection with Complaint Case no.220 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate- 1st Class, Rohtas at Sasaram, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S, 2023.

(Soni Shrivastava, J)

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