

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81018 of 2024

Arising Out of PS. Case No.-3535 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Jagat Bhushan Patel S/o- Devendra Singh Vill- Mahamdalichak P.S-
Naubatpur District-, A/P- Sri Morya Singh Jagat Narain Road Ps-Kadamkuan
Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar s/o- Dharmendra Rai R/o- Pirmohani Fourth Gali Ps-kadam
Kuan Dist- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh

For the Opposite Party/s : Mr. Harendra Prasad

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

8 08-07-2025 Heard learned counsel for the petitioner, learned

Additional Public Prosecutor for the State and learned counsel for
the opposite party no. 2.

2. The petitioner is apprehending his arrest in a case
registered for the offence punishable under Section 406 of the
Indian Penal Code and Section 138 of the N.I. Act.

3. The allegation in the complaint is that the
complainant had given a friendly loan of Rs. 10,00,000/- to the
petitioner on the assurance that he would return the same within
time. However, the petitioner did not return the said amount and
subsequently, he gave three cheques of a total amount of Rs.
10,00,000/- out of which two cheques bounced due to
insufficiency of found.

4. Learned counsel for the petitioner, at the outset,



submits that the case arises out of a complaint and despite the fact that the same had been lodged under Sections 406, 420 of the IPC and Section 138 of the N.I. Act, cognizance was taken only under Section 406 of the IPC and Section 138 of the N.I. Act. It has further been submitted that there is no chit of paper available on record to show that an amount of Rs. 10,00,000/- was given by the opposite party no. 2 to the petitioner. Further, the document which has been annexed to the counter affidavit filed on behalf of the opposite party no. 2 (Annexure-A series) would only show that on several dates certain amounts have been indicated on a page of diary and against the same, the name Modi has been written and there is denial of the fact that there is any signature of the petitioner on the said document. Learned counsel has further invited the attention of this Court to Annexure-P/2 of his petition which shows that there was an agreement to sale between one Ranjit Kumar and the present opposite party no. 2 and the witness to the complaint Anil Kumar and in the said transaction, it was actually this petitioner who had paid an amount of Rs. 3,00,000/- by way of three different cheques dated 17.03.2017 and 21.06.2017 and when the petitioner demanded his Rs. 3,00,000/- back from the opposite party no. 2 he was made to give a cheque of Rs. 16,00,000/- for the purposes of purchasing a land as the opposite party no. 2 was a land broker. It is next submitted that



the petitioner has no criminal antecedent other than one more case of Section 138 of the N.I. Act which has been filed by Anil Kumar, the witness of the present complaint case.

5. Learned counsel for the opposite party no. 2, however, controverts the submissions made on behalf of the petitioner and has tried to demonstrate that the petitioner had actually taken an amount of Rs. 10,00,000/- from the opposite party no. 2 and an amount of Rs. 6,00,000/- from Anil Kumar who is the witness to the present complaint and is now not returning the same, thereby, constituting an offence of criminal breach of trust, in addition to an offence under Section 138 of the N.I. Act.

6. Taking into consideration the rival contentions of claim and counter claim and also considering the fact that no clinching document has been brought on record with regard to the original payment of Rs. 16,00,000/- to the petitioner, let the above named petitioner in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, be enlarged on bail 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 court below where the case is pending/successor court in connection with Complaint Case No. 3535(c) of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C./482(2) of the B.N.S.S.



7. However, in the nature of the case, it is expected that the present case would be taken up on a day to day basis and would be concluded expeditiously and it has been submitted that both the parties would cooperate in the early disposal of the case.

(Soni Shrivastava, J)

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