

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89688 of 2024

Arising Out of PS. Case No.-153 Year-2024 Thana- COMPLAINT CASE - NAUGACHIA
District- Bhagalpur

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Bablu Kumar Yadav Son of Ramchandra Yadav Resident of Village- Bhitha
(Ismailpur), P.S.- Ismailpur, Distt.- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Umesh Kumar Yadav Son of Late Chun Chun Yadav Resident of Village-
Tulsipur, P.S.- Kharik, Distt.- Bhagalpur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Opposite Party/s : Mr.Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 07-05-2025 Heard Mr.Rajesh Kumar, learned counsel for the

petitioner and Mr.Jitendra Kumar Singh, learned Additional

Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in
connection with Complaint Case No.153 of 2024,FIR dated
08.05.2024 registered for the offences punishable under
Sections 420,465,468,471 of IPC and Section 138 of Negotiable
Instrument Act but the learned court below after enquiry has
been pleased to take cognizance only under Section 406 of IPC
against the petitioner.

3. The facts of the case in brief is that petition that
accused/petitioner had issued a post dated cheque for a sum of



Rs. Four Lacs towards payment of outstanding dues and on presentation, the cheque was returned with the endorsement that there is insufficient fund in the account. Thereafter when complainant went to the accused/petitioner to ask for returning the money, accused/petitioner had abused him.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. Learned counsel for the petitioner submits that the allegation as alleged in the complaint petition is false and fabricated and the petitioner has not committed any offence as alleged in the complaint petition. As per allegation in the complaint petition, the petitioner had had issued a post dated cheque for a sum of Rs. Four Lacs towards payment of outstanding dues against the complainant. Learned counsel for the petitioner submits that the complainant has not complied the mandatory provision as mentioned in Sections 138(B) and 142(B) of Negotiable Instrument Act, 1981 which suggests that after withdrawal of the cheque the complainant has not followed the procedure as prescribed aforesaid and apart from that, the learned court below has now made out the case under Section 138 of Negotiable Instrument Act and Sections 420,465,468,471 of IPC and learned court below has made out the case only



under Section 406 of IPC.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts, petitioner has clean antecedent and there is non-compliance of the mandatory provision, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 Additional Chief Judicial Magistrate-IV, naugachia, Bhagalpur in connection with Complaint Case No.153 of 2024, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS, 2023 and with other following conditions:-

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move



for cancellation of bail.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his/her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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