

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.31738 of 2018**

Arising Out of PS.Case No. -40 Year- 2013 Thana -ECONOMIC OFFENCES, BIHAR District-  
PATNA

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Kumud Devi, Wife of Arvind Kumar, Resident of Mohalla-  
Chanakyanagar, P.S.- Kumrahar, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Superintendent Economic offences Unit.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.N.K.Agrawal

Mr. Ravi Bhardwaj

For the Opposite Party/s : Mr. Mr. Akhileshwar Prasad Singh

Mr Vijay Anand

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
ORAL ORDER

3      22-06-2018                      Supplementary affidavit is filed on behalf of the  
petitioner. Let it be kept on record.

Heard learned counsel for the petitioner as well as  
learned Additional Public Prosecutor for the State.

Petitioner apprehends her arrest in connection with  
Special Case No. 61 of 2013 arising out of Economic Offences  
Unit P.S. Case No. 40 of 2013 registered under section 13(2) read  
with 13(1)(e) of the prevention of Corruption Act and section  
109/120B of IPC.

The husband of the petitioner was Junior Engineer  
and it is alleged that he acquired movable and immovable property



beyond the known sources of his income and some properties were acquired in the name of petitioner.

Admittedly, the investigation against the petitioner has already been completed and charge sheet has been submitted. The learned Special Judge 1<sup>st</sup> Vigilance Patna dismissed the anticipatory bail of the petitioner on the ground of maintainability taking note of the case of **HDFC Bank Ltd. v/s J.J.Mannan Alias J. M. John Paul and Anr.** reported in **2010(1) SCC 679**.

Learned counsel appearing for the petitioner submits that the petitioner is an income tax payee and she used to file income tax return. He further submitted that the learned Special Judge 1<sup>st</sup>, Vigilance Patna mis-interpreted the decision of **HDFC Bank Ltd. (supra)**. He further submitted that in the case of **Ravindra Saxena v/s State of Rajasthan** reported in **2010(1) SCC 684**, the Hon'able Apex Court has laid down that in spite of filing of charge sheet, the anticipatory bail petition is maintainable and the similar view was expressed by the Apex Court in the case of **Bharat Chaudhary and Anr. v/s State of Bihar and Anr.** reported in **2003 (8) SCC 77**.

On the other hand, learned counsel appearing for Economic Offences refuted the above stated submission, arguing that the learned Special Judge, Vigilance 1<sup>st</sup> Patna has rightly



dismissed the prayer of the petitioner and, moreover, in the course of the investigation, sufficient materials were collected to show the involvement of the petitioner in the alleged crime.

Having heard the contentions of both the parties, I went through the record as well as decisions cited on behalf of the petitioner. It is obvious from the perusal of decision of HDFC Bank Ltd. (supra), that the aforesaid decision was delivered on 16-12-2009 where as the decision in Ravindra Sexena case (supra) was delivered on 15-12-2009 but in the case of HDFC Bank (supra), the case of, Ravindra Sexena (supra) has not been discussed. Therefore, in my view, the decision of Ravindra Sexena (supra) shall prevail over decision of HDFC Bank (supra) and, therefore, I am of the opinion, that this anticipatory bail petition is maintainable. So far as, case of the petitioner is concerned, without expressing any opinion on the merit of the case, in my view, petitioner deserves to get the privilege of Anticipatory Bail.

Accordingly, above named petitioner, in the event of her arrest/ surrender within four weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Special



Judge, Vigilance-Ist, Patna in Special Case No. 61 of 2013 arising out of Economic Offences Unit P.S. Case No. 40 of 2013 subject to condition as laid down under Section 438(2) of the Cr.P.C.

**(Hemant Kumar Srivastava, J)**

N.K/-

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