

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16308 of 2019**

Arising Out of PS. Case No.-210 Year-2016 Thana- KOTWALI District-
Munger

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MD. ARIF HUSSAIN @ MD. AARIF HUSSAIN Son of Md. Kalim Uddin
Resident of Neelam Road North, Panitanki, Shaheed Abdul Hamid Chauk,
P.S.- Kotwali, District- Munger, Bihar-811201.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Hridayal Kumar, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

5 28-08-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 406 and 420 of the Indian Penal Code
registered in connection with Kotwali P.S. Case No. 210 of 2016.

3. It is submitted that the petitioner has been falsely
implicated on the accusation of having embezzlement of
Rs. 6,99,791/-. The petitioner is not named in the F.I.R. and his
name has surfaced in course of investigation. As a matter of fact,
the petitioner who is the Accounts Manager of the District Health
Society, had submitted the requisite draft to the informant and in
turn the informant himself had delivered the six demand drafts to
M/s Sri Krishna Febicons Private Limited and as such the
petitioner had no role to play in the defalcation, if any. Statement
is made at the Bar that as per established practice, the petitioner
had prepared the six demand drafts on the instruction of the Civil
Surgeon and handed over to him. The Civil Surgeon however was
not made accused in the F.I.R. The F.I.R. has been lodged after
inordinate delay on 05.08.2016 after lapse of eight years of the
alleged occurrence. The petitioner claims clean antecedents.

4. Learned APP submits that the petitioner along with
other co-accused persons is involved in embezzlement of
Rs. 6,99,791/- and as such payment had been made in advance to



M/s Sri Krishna Febicons Private Limited against which the drugs were not supplied. He makes reference to the F.I.R., according to which the registered notice for fund of the advance was sent to the said company but was returned undelivered. It is further submitted that embezzlement has come to light only after audit of the accounts.

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Munger in connection with Kotwali P.S. Case No. 210 of 2016, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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