

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31362 of 2020

Arising Out of PS. Case No.-5011 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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RAKHI KUMARI SINHA @ RAKHI SINHA @ RAKHI KUMARI W/o- Sri
Binay Kumar R/v- M/s Jai Enterprises, 16/545, L.I.G. Hanuman Nagar,
Kankarbagh, P.S.- Patrakarnagar, District- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Binod Kumar Jaiswal S/o- Late Shambhu Nath Jaiswal R/v- M.S. Pustkayan
Agency V- 478, Vidyapuri, Kendriya Vidyalay Road, Kankarbagh, P.S.-
Kankarbagh, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha
For the Opposite Party/s : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 08-03-2021 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner apprehends her arrest in connection
with Complaint Case No. 5011(c) of 2018 for the offence
registered under Section 420 of the Indian Penal Code and
Section 138 of the N.I. Act.

The case of the prosecution in brief as per the
complaint case filed by the complainant is that the accused
persons including the petitioner herein, who are husband and
wife had taken a friendly loan from the complainant totalling to
a sum of Rs. 9,56,000/- on various dates starting from



03.04.2017 whereafter the accused persons including the petitioner herein had returned a sum of Rs. 2,56,000/- and issued three cheques totalling to a sum of Rs. Seven lakhs. It is alleged that as far as the petitioner is concerned, she had issued two cheques amounting to a sum of Rs. three lakhs each. It is alleged in the complaint petition that when the said cheques, issued by the petitioner herein, were presented by the petitioner before his bank, the same were returned unpaid with an endorsement “fund insufficient”. It is further alleged by the complainant that upon getting information about the dishonour of the cheques, issued by the petitioner herein, the complainant had intimated about the same to the petitioner but the petitioner did not respond.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and she is having a clean antecedent. The learned counsel for the petitioner has further submitted that there is no element of cheating, hence no case is made out for the offences punishable under Section 420 of the Indian Penal Code, hence the petitioner should be granted anticipatory bail.

Per contra, the learned A.P.P. for the State Shri Ashok Kumar has vehemently opposed the prayer for bail and has submitted that the learned counsel for the petitioner has, on several occasions in the past, taken time for seeking instructions



from the petitioner regarding the amount she is ready to deposit in order to show her bona fides for the purposes of grant of anticipatory bail, however, till date no offer has been forthcoming from the petitioner and today also the learned counsel for the petitioner has got no instructions on the aforesaid issue, hence it is submitted that the petitioner is only trying to linger the present case. It is also submitted that the petitioner had issued cheques knowing fully well that the funds are insufficient in her account and the cheques are bound to get dishonoured, hence the offence of cheating is definitely made out as against the petitioner.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel for the parties and taking into account the materials available on record, this Court finds that a prima facie case is definitely made out against the petitioner for the offences alleged, hence at least the present case is not a fit case for grant of anticipatory bail, thus the present petition stands dismissed.

(Mohit Kumar Shah, J)

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