

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25001 of 2022

Arising Out of PS. Case No.-2360 Year-2019 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.- Patrakarngar, Distt- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. MR. CHANDRA SHEKHAR PRASAD The Proprietor of M/s R.L. Prasad
and Son, R/v- C-59, Hanuman Nagark Near SBI, Sri Ram Kutir,
Kankarbagh, P.S.- Patrakar Nagar, Distt- Patna.

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 21991 of 2022

Arising Out of PS. Case No.-2360 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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BINAY KUMAR S/o Late Mithilesh Pati Nath Singh (Charter Acoountant) at
M/s H.L.Sah and Associate having office at 401, A- Block, Gagan Apartment,
Echibition Road, P.S.- Gandhi Maidan, Distt.- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Mr. Chandra Shekhar Prasad Son of ----- the proprietor of M/s R.L.
Prasad and Sons, R/o- C-59, Hanuman Nagar, Near SBI, Sri Ram Kutir,
Kankarbagh, P.S.- Patrakar Nagar, Distt- Patna.

... .. Opposite Party/s

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Appearance :
(In CRIMINAL MISCELLANEOUS No. 25001 of 2022)
For the Petitioner/s : Mr. Vijay Kumar Sinha
For the Opposite Party/s : Mr. Dr. Indihar Kumari
(In CRIMINAL MISCELLANEOUS No. 21991 of 2022)
For the Petitioner/s : Mr. Vijay Kumar Sinha
For the Opposite Party/s : Mr. Dr. Indihar Kumari

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 10-11-2022

Cr. Misc. No. 25001 of 2022



Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 120B of the Indian Penal Code and 138 of the Negotiable Instruments Act.

The informant alleges that he used to run a furniture shop in the name of Ms. New Furniture Mart since 2009, it is next alleged that the husband of the petitioner (Binay) was his Chartered Accountant till 2018-19, further, Binay arranged a loan of Rs. 9.5 lacs from accused Shivji Kumar on 8.01.2015 for liquidating the loan of Central Bank of India taken by the complainant, and thereafter, closed his business. On advice of Binay opened a new furniture shop in the name and style of Messers R.L. Prashad and sons and took loan of Rs. 25 lacs from United Bank of India, it is next alleged that out of the said loan an amount of Rs. 11,80,000/- was paid to Shivji Kumar on assurance of Binay that 2.3 lacs paid in excess to Shivji shall be returned to the complainant, further, on advice of Binay the complainant gave Rs. 6.86 lacs to his wife (petitioner) with an assurance that the same would be returned, further, the petitioner refunded an amount of Rs. 60,000 and Shivji Rs.



30,000/-, further, Binay issued two cheques of Rs. 2.5 lacs and 9.5 lacs to the complainant but the cheques were dishonoured.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegation as alleged in the FIR it would manifest that the allegation hinges around the fact that two cheques were issued by Binay which got dishonoured and the petitioner being wife of Binay came to be implicated only on the ground that it is alleged that an amount of Rs. 6.86 lac was also given to her on assurance of Binay that the same would be returned but then the cheques which were issued bounced. It is next submitted that petitioner has not issued the cheque and she is wife of Binay and if complainant has any grievance against the petitioner then he has remedies available in law for getting his money back by filing a money suit.

Learned A.P.P. for the State and the learned counsel for the complainant opposes the anticipatory bail application of the petitioner but are not in position to rebut the submission of the learned counsel for the petitioner that the cheque was not issued by the petitioner and also that complainant has remedies available in law for getting his money back in the event if he



intends.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Patna Complaint Case P.S. Case No. 2360 of 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Cr. Misc. No. 21991 of 2022

Heard learned counsel for the petitioner and learned A.P.P. for the State and learned counsel for the informant.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 120B of the Indian Penal Code and 138 of the Negotiable Instruments Act.

The complainant alleges that he used to run a furniture shop in the name of Messers New Furniture Mart since 2009, it is next alleged that the husband of the petitioner (Binay) was his Chartered Accountant till 2018-19, further, Binay



arranged a loan of Rs. 9.5 lacs from accused Shivji Kumar on 8.01.2015 for liquidating the loan of Central Bank of India taken by the complainant, and thereafter, closed his business. On advice of Binay opened a new furniture shop in the name and style of Messers R.L. Prashad and sons and took loan of Rs. 25 lacs from United Bank of India, it is next alleged that out of the said loan an amount of Rs. 11,80,000/- was paid to Shivji Kumar on assurance of Binay that 2.3 lacs paid in excess to Shivji shall be returned to the complainant, further, on advice of Binay the complainant gave Rs. 6.86 lacs to his wife (petitioner) with an assurance that the same would be returned, further, the petitioner refunded an amount of Rs. 60,000 and Shivji Rs. 30,000/-, further, Binay issued two cheques of Rs. 2.5 lacs and 9.5 lacs to the complainant but the cheques were dishonoured.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and has been falsely implicated in the present case, it is next submitted that from tenor of the allegation as alleged in the complaint it would manifest that the complainant and the petitioner were known to each other as petitioner was his C.A. and based on his advice the complainant was also doing his business, it is next submitted no doubt petitioner had issued two cheques in favour of the



complainant but then the same bounced, it is also submitted that bouncing of cheque is a bailable offence under Section 138 of the N.I. Act and as far as allegation under Section 406 and 420 is alleged, the same is still to be adjudicated in a duly constituted trial, the learned counsel next submits that in event if the petitioner is acquitted of the charges in the trial then how his period of incarceration would be compensated if presently the petitioner is sent to jail and if the petitioner is indicted, he will serve the sentence.

Learned counsel for the complainant and the learned counsel for the informant oppose the bail application. Learned counsel for the complainant submits that petitioner in his anticipatory bail application has only disclosed two antecedent and thus has not approached the Court with clean hands and three more complaint cases were instituted against the petitioner.

Learned counsel for the petitioner at this stage submits that he has only two antecedent and does not have any idea or knowledge about the cases being submitted by the learned counsel for the complainant, further, the learned counsel submits that he has never received any summon with regard to any complaint case apart from the cases mentioned in the



present application.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Patna Complaint Case P.S. Case No. 2019 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Further, the learned counsel for the complainant in the learned Trial Court shall file an application of giving details of the three complaint cases which the complainant alleges have been filed against the petitioner, apart from the two cases which has been mentioned by the petitioner in the present anticipatory bail application.

The learned Trial Court before accepting the bail bonds of the petitioner shall verify, whether summons were received by the petitioner in accordance with law or not with regard to the cases mentioned in the application filed on behalf of the complainant through his learned lawyer, in the event if it



is found that the summons were received by the petitioner then the present anticipatory bail order shall not be acted upon and if summons were not served or received by the petitioner then the present order shall be acted upon forthwith.

Learned counsel for the complainant shall file an application bringing on record the criminal antecedents of the petitioner within three days of the petitioner surrendering in Court, failing which the opportunity to file the application shall stand forfeited.

(Satyavrat Verma, J)

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