

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16561 of 2023

Arising Out of PS. Case No.-556 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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NITU SINGH Wife of Dheeraj Kumar Singh Resident of Naraon Tola, P.O.-
Naraon, P.S.- Naraon, District - Saran at Chapra Presently residing at Road
No.- 10, Alka Puri, Near Shivam Hospital, P.S.- Gardanibagh, District - Patna.
... .. Petitioner/s

Versus

1. The State of Bihar
2. Poonam Singh Wife of Dinesh Kumar Resident of Lane No.- 9, Ranjan Path,
Gola Road, P.S.- Danapur, District - Patna.
... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate.
For the State	:	Mr. Lalan Kumar, A.P.P.
For the Complainant	:	Mr. Madan Mohan, Advocate. Mr. Dinkar Kumar Dubey, Advocate. Mr. Rohit Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 30-05-2023 Heard Mr. Sanjay Kumar, learned counsel for the

petitioner, Mr. Lalan Kumar, learned Additional Public

Prosecutor for the State and Mr. Madan Mohan, learned counsel

appearing for the Complainant/Opposite Party No. 2.

Petitioner apprehends his arrest in connection with

Complaint Case No. 556(C) of 2019 dated 12.02.2019

registered for the offence punishable under Sections 406, 420

and 120-B of the Indian Penal Code and Section 138 N.I. Act.

As per the complaint case, the husband of the

petitioner who is a co-accused namely, Dheeraj Kumar Singh

was appointed as Accountant in the Complainant's company in



the year 2013. During course of employment, the husband of the petitioner committed financial fraud in the account of the company and in that process, defalcated a total amount of the complainant's company to the tune of Rs. 1,69,48,771/-. In the present case, a sum of Rs.80,00,000/- is involved which was returned by the husband of the petitioner i.e. co-accused Dheeraj Kumar Singh in favour of the complainant by two Cheques bearing Cheque Nos.653389 out of which one was signed by co-accused Dheeraj Kumar Singh and another was signed by the petitioner bearing Cheque No. 413387. The aforesaid cheques were tendered by the petitioner as well as her husband towards defalcated amount as alleged.

Learned counsel for the petitioner submits that on the basis of allegation made in the complaint, the learned Magistrate has taken cognizance against the petitioner and her husband under Section 138 N.I. Act and Section 408 of Indian Penal Code. Learned counsel further submits that Section 408 of the Indian Penal Code is not applicable in the facts of the present case inasmuch as the petitioner was never employed as a clerk and/or servant in the company. Section 138 N.I. Act is bailable. He, however, submits that without prejudice to the right and contention of the petitioner, the petitioner is ready to pay a sum



of Rs.10,00,000/- in favour of the Complainant/Opposite Party No. 2, out of which, Rs. 5,00,000/- shall be paid by Bank Draft on the date of furnishing bail bonds by the petitioner and remaining Rs.5,00,000/- shall be paid within a period of 1 ½ (one and half) months from the date of submission of bail bonds.

Learned counsel for the Complainant/Opposite Party No. 2 agrees to the offer made by the petitioner for payment of Rs.10,00,000/- as a condition for bail.

Regards being had to the submission made by the parties and taking into consideration the nature of allegation and the fact that the petitioner was not the clerk/servant in the concerned company and had issued the cheques at the behest of her husband for repayment of the defalcated amount, the husband of the petitioner is in jail in the present case and she is ready to pay a sum of Rs.10,00,000/- as a condition for bail, I am inclined to grant provisional anticipatory bail to the petitioner for three months.

Accordingly, in the event of arrest or surrender before the court below within three weeks from today, let the petitioner, above named, be released on provisional anticipatory bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two



sureties of the like amount each to the satisfaction of Ms. Shweta Choudhary, learned Judicial Magistrate, 1st Class, Patna, in connection with Complaint Case No. 556(C) of 2019 subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that at the time of surrender and furnishing bail bond, the petitioner shall hand over a sum of Rs.5,00,000/- in favour of the complainant by way of Bank Draft and balance amount of Rs.5,00,000/- shall be paid by the petitioner to the Complainant by way of Bank Draft within a period of 1 ½ (one and half) months from the date of submission of bail bonds.

If the total amount of Rs.10,00,000/- is paid by the petitioner to the Complainant and upon receipt being produced by the petitioner before the court of Ms. Shweta Choudhary, learned Judicial Magistrate, 1st Class, Patna/concerned court, the concerned court is directed to confirm the provisional bail granted to the petitioner by this Court.

(Anil Kumar Sinha, J)

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