

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28422 of 2023

Arising Out of PS. Case No.-1911 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

Richa Jha @ Rimu Wife Of Shri Kunaal Jha @ Gunjan R/O At - S.R.T.
Quarter, Near- Mahindra Pride School, Rajendra Nagar, Road No. 12, Ps-
Kadamkuan Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudha Jayaswal Wife Of Niranjan Kumar Mohalla- Khanjanchi Road,, Lane
No-1, Ps- Pirbahore, Dist- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the Complainant	:	Mr. Rajnish Kumar, Advocate
For the Opposite Party/s	:	Mr. Arun Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 14-07-2023 Heard Mr. Rajesh Ranjan, learned counsel appearing
on behalf of the petitioner; Mr. Rajnish Kumar, learned counsel
appearing on behalf of the complainant and Mr. Arun Kumar
Pandey, learned counsel appearing on behalf of the State.

2. A complaint has been lodged against the petitioner
and her husband that on the pretext of admitting the daughter of
the complainant, who had qualified NEET examination in Mata
Gujari Memorial Medical College & L.S.K. Hospital,
Kishanganj, Bihar. The complainant for the facilitation of the
admission of her daughter has given Rs. 17,00,000/- in cash to
the husband of the petitioner and certain transaction for amount
of Rs. 5,00,000/- was made by two cheques. As per the
complaint, the complainant had requested the bank to stop



payment of the two cheques which was in the favour of the petitioner's husband. The further case of the complainant is that a draft of Rs. 12,00,000/- was also handed over to the petitioner which was in favour of the college.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner's husband is only an admission facilitator and in terms of the private agreement entered into between the parties on the assurance of the husband of the petitioner, the complainant has allegedly given a sum of Rs. 17,00,000/-, in cash, to the husband of the petitioner. The petitioner being wife, the complainant has drawn her in the present criminal case. It has further been stated in Paragraph No. 15 of the complaint petition that petitioner has also facilitated in convincing the complainant that her daughter will be admitted. It is further submitted by learned counsel that the ingredient of having committed fraud can only be considered to be against the petitioner's husband who had issued a cheque of Rs. 17,00,000/- in favour of the complainant, but the same has not been credited because of insufficient fund in the account of the husband of the petitioner. Any transaction which has been entered into between the complainant and the husband of the petitioner cannot be clubbed to hold petitioner guilty. The petitioner further submits



that the husband of the petitioner is negotiating with the complainant and there is every likelihood that the party will arrive at some agreed terms and conditions if at all the husband of the petitioner is responsible to return back any sum of amount on the basis of mutual agreement the same will be done in accordance with the terms and conditions entered into her husband and the complainant within a period of six weeks.

4. Learned counsel appearing on behalf of the complainant has vehemently opposed the prayer for grant of anticipatory bail to the petitioner. He has submitted that the petitioner and her husband have committed fraud with the complainant on the pretext of getting the daughter of the complainant admitted in a Medical College in Kishanganj, however, they failed to get the daughter of the complainant admitted in the concerned college of Kishanganj. The husband of the petitioner has admittedly accepted that he has not performed his part and as per the agreement he had given a cheque bearing No. 085422 of Kotak Mahindra Bank dated 31.12.2018 for an amount of Rs. 17,00,000/-. The cheque, however, got dishonored due to insufficient fund. The petitioner is also being an active participant in commission of the fraud cannot be absolved from returning back the entire amount which



has admittedly not been returned to the complainant.

5. Learned APP has supported the submission made on behalf of the complainant.

6. Having considered the rival submission of the parties as well as considering the fact that the husband of the petitioner and the complainant had agreed on mutual terms and conditions to get the daughter of the complainant admitted in Medical College situated in Kishanganj. It has been stated that as per the agreed terms and conditions the complainant had deposited the Rs. 12,00,000/- in cash to the husband of the petitioner and Rs. 5,00,000/- by two cheques, however, the complainant chosen to stop payment of those cheques.

7. It is also admitted that the husband of the petitioner having failed to get the complainant's daughter admitted, has issued a cheque of Rs. 17,00,000/- on 31.12.2018 and the said cheque got dishonored. The fact reveals that the cheque issued for Rs. 17,00,000/- by the husband of the petitioner got dishonored and her husband has agreed to return back the money on mutual terms and conditions.

8. I am of the opinion that the petitioner has, *prima facie*, made out a case to be released on bail.

9. The Court below is directed to release the petitioner



on anticipatory bail, in the event of her arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned Sub-Judge-IV-cum-A.C.J.M., Patna in connection with Complaint Case No. 1911 (c) of 2019, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

Manish/-
Minu/-

U		T	
---	--	---	--

