

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34293 of 2023

Arising Out of PS. Case No.-59 Year-2020 Thana- DANAPUR District- Patna

Nitu Devi W/O Kariman Saw R/O Village- Aadampur Piplawana (Adampur Piplawana), P.S- Naubatpur, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anil Kumar S/O Sri Dinesh Prasad Gupta R/O Bibiganj More, Shital Sweets Danapur, Near thana, P.S- Danapur, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Niraj Kumar, Advocate
For the Informant	:	Mr. Manoranjan Kumar, Advocate
For the State	:	Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 18-09-2023 Heard learned counsel for the petitioner, learned counsel appearing on behalf of the Informant and learned APP for the State.

2. Petitioner seeks bail, who is in custody since 22.05.2022, in connection with Danapur P.S. Case No. 59 of 2020, F.I.R. dated 21.01.2020 registered for the offences punishable under Sections 406, 420/34 of the Indian Penal Code and Section 138 of the N.I. Act.

3. As per prosecution case, the petitioner and her co-accused husband requested a loan of Rs. 20 lacs from the informant and they made a paper of agreement for return of the said money and issued four post-dated cheque for the same.



Later on when the cheques were presented for encashment, the same was dishonored for want of fund. Thus, the informant came to know that he was cheated of his money.

4. Learned counsel for the petitioner submits that the petitioner is innocent and she has been falsely implicated in the present case. He further submits that from perusal of the F.I.R. it appears that the petitioner has not committed anything wrong with the informant and the petitioner is the first wife of the co-accused namely Kariman Saw who is husband of the petitioner had requested a loan of Rs. 20 lacs from the informant and in view of that the petitioner and the husband of the petitioner had issued a post-dated cheques in favour of the informant and later on when the cheque was presented for encashment, the same was dishonored for want of fund. He further submits that she has been falsely implicated in the present case due to house-wife and she has no concern with the business affairs of her husband and no case is made out under Sections 406 and 420 of the Indian Penal Code and for the dishonor of the cheque, the informant may be filed a complaint case under Section 138 of the Negotiable Instruments Act and only a complaint is maintainable under the Negotiable Instruments Act. He further submits that the police after



investigation submitted chargesheet against the petitioner and the petitioner is in custody since 22.05.2022.

5. The learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of the Informant, vehemently opposed the prayer for bail of the petitioner and submit that author of one of the cheque is the petitioner and the husband and wife intentionally issued a cheque in favour of the informant. Learned APP for the State further submits that apart from the aforesaid, the petitioner carries three more cases of similar nature other than the present one.

6. Considering the facts and circumstances of the case and the period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM 1st, Danapur, Patna in connection with Danapur P.S. Case No. 59 of 2020, subject to the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on her absence on two consecutive dates without sufficient



reason, her bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed her criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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