

Arising Out of PS. Case No.-6534 Year-2023 Thana- PATNA COMPLAINT CASE District- Patna

Petitioner/s

1. The State of Bihar
2. Anjani Jamuna Choubey Son of Late Jamuna Choubey RESIDENT OF FLAT NO. E-405, GREEN HAERITAGE APARTMENT,SIROSAWAR NAGAR, MAINPURA, PS- PATLIPUTRA, TOWN AND DISTRICT- PATNA

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar
For the Opposite Party/s : Mr. Md. Mushtaque Alam

2 27-03-2024 1. Heard learned Senior counsel for the petitioner Mr. Krishna Prasad Singh and learned A.P.P. for the State along with learned counsel appearing on behalf of the complainant.

2. The petitioner apprehends her arrest in a case registered for the offence punishable under Sections 406 of the Indian Penal Code & Section 138 of the N.I. Act.

3. Learned Senior counsel for the petitioner Mr. Krishna Prasad Singh submits that the petitioner has been falsely implicated in the instant case. It is also submitted that even presuming what has been alleged is true without admitting then complainant has already instituted a case under section 138 of the



N.I. Act, on the allegation that the cheques issued on presentation for encashment bounced. It is next submitted that whether the cheque was issued for a valid consideration or not is an issue to be decided in the trial. It is further submitted that it absolutely does not stand to reason that on what basis cognizance came to be taken under section 406 of the Indian Penal Code also when it is a pure and simple case of cheque bouncing. It is further submitted that in the event if the petitioner is not able to prove his case before the learned trial court in that event the petitioner will either return the amount in accordance with law or will serve the sentence. It is also submitted that the legislature in its wisdom enacted N.I. Act making offence under section 138 of the N.I. Act bailable but then in mechanical manner, the courts are taking cognizance under sections 406 and 420 of the Indian Penal Code. It is further submitted that petitioner will not abscond rather will co-operate in the trial and will present herself as and when required by the learned trial court.

4. Learned A.P.P. for the State along with learned counsel appearing on behalf of the O.P. No.2 opposes the prayer for anticipatory bail application of the petitioner but then are not in a position to rebut the submission of the learned counsel for the petitioner that offence under section 138 of the N.I. Act is bailable and in the event if the complainant is not able to prove her case in



that event what will happen and if the prosecution is able to establish its case, the petitioner will either repay the entire amount or will serve the sentence.

5. Considering the submissions made by the learned Senior counsel for the petitioner, the petitioner above-named, in the event of her arrest or surrender before the learned Court below 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 Complaint Case No.6534© of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

6. However, it is made clear that petitioner will not leave India without seeking permission of the learned trial court. It is further made clear that in the event if the learned trial court comes to a conclusion that petitioner after obtaining anticipatory bail is trying to delay the trial in any manner, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner.

(Satyavrat Verma, J)

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