

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14588 of 2025

Arising Out of PS. Case No.-339 Year-2016 Thana- TURKAULIYA District- East
Champaran

Indu Devi, W/O Vinod Kumar @ Vinod Kumar Yadav, R/O Village-
Brahmpura, P.S- Banjariya, Distt.- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, B.S.F.C. Motihari Anchal, Distt.- East Champaran.
Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Anand, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 13-05-2025 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The petitioner apprehends her arrest in connection
with Turkaulia (Banjariya) P.S. Case No. 339 of 2016, registered
for the offences punishable under Sections 409 and 420 of the
Indian Penal Code, 1860.

3. It is the admitted position that earlier the petitioner
had moved before this Court in Criminal Miscellaneous No.
42923 of 2016 which came to be rejected vide order dated
08.09.2017 by a Bench of this Court. The FIR contains
allegation that the petitioner being the Chairman of PACS of



Block Banjariya received 6173 Mt. Paddy with agreement to supply 4135.91 Mt. (CMR) rice after milling to the Bihar State Food Corporation but the petitioner failed to supply the same and deposited only 2608.81 Mt. (CMR) rice till 31.07.2016 and, as such, the petitioner in this way misappropriated the remaining 1527.1 Mt rice worth Rs. 32,13,746.73/-.

4. Learned Advocate appearing on behalf of the petitioner contended that on account of subsequent substantive development taking place in the matter, the present application is filed. Earlier in Criminal Miscellaneous No. 42923 of 2016, the petitioner has undertaken to deposit the entire amount within a period of six months, but in the meanwhile a recovery certificate proceeding came to be initiated and, as such, amount could not be deposited. However, it is submitted on oath by the petitioner that he further deposited the entire amount to the tune of Rs. 32,13,746.73/-, hence the second anticipatory bail application is filed. To support the aforesaid contention, learned Advocate for the petitioner placed reliance upon a letter dated 27.02.2025, as well as dated 16.03.2025, the copies of which are marked as Annexure P/1 to the supplementary affidavit to show that 'No Due Clearance Certificate', issued by the Motihari Central Co-operative Bank Limited, Branch Motihari, bearing



reference no. 447/2022. The District Co-operative Officer has also written a letter to the jurisdictional Court, regarding payment made by the petitioner. Based upon the aforesaid letter it is thus contended that now the entire alleged misappropriated defalcated amount has been deposited with the Central Co-operative Bank. It is further contended that mere non-performance of an agreement to sale by itself does not amount to cheating and breach of trust. Moreover, the respondent had the appropriate civil remedy available.

5. Learned Advocate for the petitioner lastly submitted that on the last occasion on account of misinformation it has been submitted before this Court that the process under Section 82 has not been issued, however, later on he came to know that the process under Section 82 has already been initiated in November, 2024 itself. However, the same could not be informed to this Court because of the fact that the petitioner and the *pairvikar* of the case was not aware of the current position. Reliance has also been placed on a decision rendered by the Hon'ble Apex Court in the case of ***Asha Dubey vs. The State of Madhya Pradesh, (Criminal Appeal No. 4564 of 2024)*** wherein the Court has held that :-

“8. Coming to the consideration of anticipatory bail, in the event of



declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.”

6. On the other hand, learned Advocate for the State and the Advocate for the B.S.F.C. opposed the pre-arrest bail application and submits that the prayer for bail was rejected way back in the year 2016 and even if for the sake of argument it is accepted that the defalcated amount has been paid after a delay of seven or eight years, the petitioner cannot be let off from his criminal liability. In various occasion the Supreme Court has also held that mere deposit of the amount would not let off the accused from the criminal charges.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner had already deposited the defalcated amount to the tune of Rs. 32,13,746.73/- as also the fact that the petitioner is a lady having fair antecedent and she undertakes before this Court that she will fully cooperate in the proceeding of the Court; as also taking a lenient view in the light of the mandate of the Apex Court, this Court is pleased to accept the prayer of the petitioner, let the petitioner above named be released on bail, in the event of her arrest or surrender before the Court below within a period of four weeks from the date of receipt/production of a copy of



this order, upon furnishing bail bonds of Rs.25,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate or any other Judicial Magistrate, Motihari, District East Champaran in connection with Turkauliya (Banjariya) P.S. Case No. 339 of 2016, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023 with the further conditions that the petitioner shall produce the document at the time of furnishing of the bail bond that the aforementioned amount has already been deposited and also that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

supratim/-

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