

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52127 of 2024

Arising Out of PS. Case No.-802 Year-2022 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Akhileshwar Choubey Son Of Late Nand Lal Choubey Resident Of Village -
Rajpur, P.S. - Rajpur, District - Buxar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Bimala Devi Wife Of Baban Pandey Resident Of Village And P.S. - Rajpur,
District - Buxar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Maya Shankar Mishra, Adv

For the Opposite Party/s : Mr.Arun Kumar Pandey, APP

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

6 01-07-2025 Heard learned counsel for the petitioner, learned
counsel for the OP.No.2 and learned APP for the State.

2. Petitioner apprehends his arrest in a case registered
for the offences punishable under section 406 of the Indian
Penal Code.

3. The prosecution as disclosed in the complaint petition
is that the petitioner (Akhileshwar Choubey) has taken an
amount of Rs. 11 lakh from the husband of the complainant
(Baban Pandey) out of which he had returned Rs. 5 lakh and 6
lakh still remains to be returned.

4. Learned counsel for the petitioner submits that the at
the outset, that the prosecution arises out of a complaint case



which was lodged by one Vimla Devi with the allegation aforementioned. In the statement of the complainant on S.A, it would appear that the complainant has clearly stated that she had come to file a case with regard to money. She has further stated that some of the money was given in the account whereas some was given in cash. It is denied on behalf of the petitioner that a total amount of Rs. 11 lakh was given to him. On the contrary it has been submitted that he has already returned the amount which he had taken from the husband of the complainant. Further submission is that there is no agreement between the parties for carrying out the business and hence, the case is at best of a civil dispute regarding money transaction and not fulfilling of promise on behalf of the petitioner. It has also been submitted that there is no case of cheating against the petitioner and cognizance has only been taken under section 406 of the IPC.

5. The learned counsel for the OP.No.2 opposes the prayer for bail.

6. Taking into consideration that criminal process cannot be used for recovery of money, I am inclined to grant privilege of anticipatory bail to the petitioner. Accordingly, in the event of his arrest/ surrender within a period of four weeks



from today, the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand)with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/ successor court in Complaint Case No. 802 C of 2022, subject to condition as laid down under section 438(2) of the Cr.PC .

(Soni Shrivastava, J)

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