

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73426 of 2024

Arising Out of PS. Case No.-4797 Year-2023 Thana- PATNA COMPLAINT CASE District- Patna

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Anil Kumar @ Anil Lal Bhai Son of Late Hari Lal Pandit Resident of Infiniti Construction, M-1 Hari Bhawan, Lal Bhai Society Lane, Near Hotel Ashtha Inn Exhibition Road, P.S. - Gandhi Maidan, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Thakur Son of Pawan Kumar Thakur Resident of Village - Ratauli, Ward No. 06, P.S. - Jaleswar, District - Mahotari, Janakpur, Nepal

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Sr. Adv. Mr. Harsh Vardhan, Adv. Mr. Samsher Prasad, Adv.
For the State	:	Mr. Yogendra Kumar, APP
For the Complainant	:	Mr. Bhavesh Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

6 01-07-2025 Heard Mr. Raju Giri, learned senior counsel for the petitioner, learned APP for the State and learned counsel for the complainant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 406, 420, 467 and 120(B) of the Indian Penal Code.

3. The allegation in the complaint filed by the complainant is that a total amount of Rs. 14,20,200/- was cheated by the accused persons who are the Directors and Manager of a company from the informant by alluring him into business transaction and despite the payment of money, the



construction equipment was not supplied.

4. Learned senior counsel appearing for the petitioner submits, at the outset, that the present complaint filed by the complainant is itself not maintainable in view of the fact that as against his specific allegation of being defrauded by the company, the company has itself not been made an accused. So far as the petitioner is concerned, he is no doubt one of the Directors of the company, but no specific allegation has been carved out against him in the entire exhaustive complaint. It is further pointed out that in paragraphs 3 & 4 of the present complaint, the allegations are, to some extent, specific against the Manager Sanjeev Kumar who had initially talked with the informant and to whom a cheque of Rs. 20,000/- issued in the name of the company was handed over. Further, it is also specifically submitted that the receipt of the payment of two drafts of Rs. 5,00,000/- and Rs. 4,00,000/- was handed over to the complainant by Sunil Lal Bhai and Manager Sanjeev Kumar. It is next submitted that the petitioner is a mere name lender with no active involvement in the affairs of the company.

5. Learned senior counsel for the petitioner also places reliance upon a judgment of the Hon'ble Supreme Court in the



case of *Sarad Kumar Sanghi vs. Sangita Rane* reported in 2015 AIR SCW 4202 to contend that the petitioner cannot be made vicariously liable for an act of the company. However, it is submitted that the equipment had already been supplied to the complainant.

6. Learned APP for the State and learned counsel for the complainant, however, oppose the prayer for bail on the ground that the petitioner is also one of the Directors of the company and and hence his involvement in the present offence cannot be negated. Further, learned counsel for the complainant also controverts the submission advanced on behalf of the petitioner with regard to any supply/receipt of equipment. Learned counsel for the complainant also points out that the entire payment has been made through RTGS in the company's account. He further submits that if the record of the modes of payment is produced, the picture would become clear.

7. Considering the fact that the present matter arises of a business transaction between the parties and the petitioner has been made accused only by virtue of he being one of the Directors of the company with no specific allegation and also no criminal antecedent, I am inclined to grant the privilege of anticipatory bail to the petitioner. Let the petitioner, above



named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with Complaint Case No. 4797(C) of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C/ 482 (2) of the BNSS, 2023.

8. However, the petitioner would cooperate in the trial and remain present in the learned court below on each and every date during trial either personally or through his counsel till the conclusion of the trial.

(Soni Shrivastava, J)

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