

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2021 of 2026

Arising Out of PS. Case No.-10596 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Kulbhaskar Ambust @ Ambust Kulbhaskar S/o Gopal Saran Ambust R/o Adarsh Nagar, Road no. 70 Feet, P.S.- Beur, Patna, Distt.- Patna
 2. Kumari Asha @ Asha Kumari W/o Kulbhaskar Ambust R/o Adarsh Nagar, Road no. 70 Feet, P.S.- Beur, Patna, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Charanjeet Singh S/o Late Sardar Rawel Singh R/o Quarter no. 30, Chitkohra Bazar, New Gurudwara, Anisabad, P.S.- Gardanibagh, Distt.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amit Srivastava, Sr. Advocate with
Mr. Ayushman Kishore, Ms. Akanksha Malviya & Mr. Akash Keshav, Advocates

For the Opposite Party/s : Mr. Syed Mojibur Rahman, A.P.P.
Mr. Bajarangi Lal, Adv. for OP-2

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 23-07-2026 Heard learned senior counsel for the petitioners,

learned A.P.P for the State and learned counsel appearing on

behalf of complainant/opposite party no. 2.

2. The petitioners apprehend their arrest in

connection with Complaint Case No. 10596/2022 in which

cognizance has been taken for offence punishable under

Sections 409, 419 & 465 of the Indian Penal Code.

3. Earlier, the matter was referred to Mediation &

Conciliation Centre of Patna High Court for exploring the

possibility of settlement of dispute between the parties, but the

dispute could not be resolved through the process of mediation



and as such, mediation failed.

4. The prosecution case, in brief, is that:

“the complaint is an old aged shop-owner at Chitkohra Bazar, Anisabad, Patna and has been running his shop and earning his livelihood. Petitioner no. 2 was an authorized agent of Aditya Birla Capital Policy (and also wife of petitioner no. 1), who came in contact with the complainant sometime in the year 2010. The accused persons used to tell the complainant that she is an authorized agent of Aditya Birla Capital and used to tell the complainant stories as to how people can earn good returns out of their savings if they invest in different policies of Aditya Birla Capital. There was friendly and cordial relations between the complainant's family and the accused persons. On the faith and trust, the complainant purchased several policies of Aditya Birla Capital/Group through the accused persons, bearing police numbers 006169932, 005079278, 004287987, 006855827, 006855371, 004727680, 004590364, 007206732, 007230745, 007037489, 004126375, 004013188, 004590363 starting from the year 2010 to 2015. The complainant based on that faith and trust used to give the accused persons cash and blank cheques for the purpose of depositing premiums of the purchased policies. When the complainant pursued the matter more seriously and asked the accused about premium paid certificates, the accused persons provided fake and forged certificates of Aditya Birla Capital/ Group showing deposit of the premium amount. When the complainant along with his son went to the office of Aditya Birla Company, to his utter surprise, he came to know that no such policies existed against which the accused persons were taking premium amounts from him



or has expired due to non-payment of premium amount or were not purchased in the first place and only money taken by the accused persons from the complainant in that regard. Further the complainant came to know that the premium paid certificates, provided by the accused persons, were forged and fabricated. The complainant tried to contact the accused persons and confronted them and thereafter the accused started avoiding calls and soon thereafter started threatening the complainant and his family that they will face dire consequences if they talk about the matter, but after mounting some pressure, the accused persons agreed to return back the original investment as well as the losses suffered by the complainant in the tune of Rs. 45,00,000/- (Rupees Forty Five Lakhs). The accused persons gave two cheques to complainant to clear the dues amount, however both the cheques, bearing no. 149302 dated 08.03.2022 and 149303 dated 15.03.2022, got bounced on 22.03.2022 from SBI. Anisabad branch, Patna, due to insufficient funds in account of accused persons. The complainant left with no choice whatsoever, sent legal notice dated 21.04.2022 demanding from the accused payment of Rs. 45,00,000/- (Rupees Forty-Five Lakhs Only) along with bank interest within 15 days of sending the legal notice. The accused person, instead of clearing their dues, sent a reply to the legal notice through their advocates which was received by the complainant on 10.05.2022. The petitioners, in furtherance of their common intention to cheat and dupe the complainant, have misappropriated huge amount belonging to the complainant.”

4. Learned senior counsel for the petitioners submits that petitioners committed no offence, as alleged in the



complaint petition. Allegation is omnibus. Petitioner no. 1 is working in the Aditya Health Insurance Company Ltd., the same company of different vertical, and petitioner no. 2 is wife of petitioner no. 1. By relying on an order of Hon'ble Supreme Court in the case of *Jay Shri & Anr. vs. State of Rajasthan* (arising out of S.L.P. (Crl.) No. 14423 of 2023), learned senior counsel submits that Hon'ble Court has held that:

“..... mere breach of contract does not amount to an offence under Section 420 or 406 of the Indian Penal Code, unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.”

5. Learned senior counsel for the petitioners further submits that at no point of time, any summon was issued upon these petitioners and therefore, under Section 87(b) of the B.N.S.S., 2023, there cannot be any ground for issuance of N.B.W. against these petitioners. He has also relied upon an order of Hon'ble Supreme Court in the case of *Shailesh Kumar Singh Alias Shailesh R. Singh v. State of Uttar Pradesh & Ors.* in Criminal Appeal No. 2963/2025 {arising out of Special Leave to Appeal (Crl.) No. 4880/2025} wherein Hon'ble Court has observed that for recovery of a certain amount, one should



file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings. On aforesaid ground, he prays for extending the privilege of anticipatory bail to these petitioners.

6. On the other hand, learned counsel for the opposite party no. 2 vehemently opposes the prayer for anticipatory bail and submits that there is specific accusation against petitioners that in the name of different policies of Aditya Birla Capital/Group, they received total Rs. 45 Lakhs from the complainant and misappropriated the same and when complainant put pressure, petitioners issued two cheques, which was also got dishonored due to insufficiency of fund in the account of petitioners.

7. From perusal of materials available on record, it appears that petitioners have cheated Rs. 45 Lakhs of complainant and summons have also been issued by the learned Court below, but petitioners did not appear. Thereafter, a bailable warrant, vide order dated 24.10.2024, and Non-bailable warrant, vide order dated 18.06.2025, were also issued, but petitioners chose not to appear before the Court and filed application for grant of anticipatory bail, which was rejected by the learned Court below.



8. Taking into consideration the submissions made on behalf of the parties and materials available on record with specific accusation that these petitioners misappropriated Rs. 45 Lakhs from the complainant in the name of different policies of Aditya Birla Capital/Group, I do not find any ground to extend the privilege of anticipatory bail to these petitioners. Accordingly, the prayer for anticipatory bail of petitioners is rejected.

(Prabhat Kumar Singh, J)

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