**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.64419 of 2026**

**CNR No. BRHC010910492026**

Arising Out of PS. Case No.-434 Year-2026 Thana- DHANARUA District- Patna

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Sushma Kumari W/o Pankaj Kumar Resident of Village- Saifganj, P.O. and P.S.- Bankey Bazar, District- Gaya

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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**Appearance :**
For the Petitioner/s : Mr. Rakesh Kumar Jha, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP

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**CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR**

ORAL ORDER

3 29-10-2026 Heard the learned senior counsel for the petitioner and the learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Dhanarua P.S. Case No. 434 of 2026, registered for an offence under Sections 111, 143(3), 143(4) and 143(5) of the B.N.S.

3. As per the prosecution story, which has been lodged on the basis of written report submitted by the informant to the effect that she is the mother of three small children and there was a matrimonial discord in between her and her husband, who works in Pune. At around 11:00 A.M. on 23.06.2026, one Sushila Devi told her to get her job at Patna and took her to Patna. She took her to the house of one Sunita Devi, who works with her in Indira IVF, Patna. Thereafter, Sushila

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Devi, Sunita Devi and husband of Sunita Devi, namely, Anil Ram told the informant that in Kota, at Rajasthan, an offer has come for new job and there the informant will get higher salary. All the four persons will go to Kota and will work there and thereafter, the informant should also call her husband there. Thereafter, they told her that how will she took her two-months old daughter, therefore, she was suggested to keep her at one of their relatives place. They took her to one Neelu, who also work in Indira IVF and thereafter, Neelu called one lady named Sushma and all the three accused persons named in First Information Report i.e., Sushila Devi, Sunita Devi and Anil Ram handed over the two-months old daughter of the informant to Neelu. The informant along with Sushila Devi, Sunita Devi and Anil Ram, went to Kota along with her two other daughters. At Kota, the informant was sold to someone by all the three accused persons and they took money from person, to whom she was sold. They left her at the said place and the mobile number of the informant was also snatched by the person, to whom she was sold. One day, the informant somehow or other managed to call her mother-in-law from the mobile number of the person, to whom she was sold and thereafter, her mother-in-law started pressurizing accused Sushila Devi to hand over the

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informant and her three children. Upon which, Sushila Devi came to Kota and took the informant and her two daughters along with her on 05.07.2026, however, the two-month old daughter of the informant was not produced. On the basis of the said written report, the First Information Report was lodged.

4. The learned counsel for the petitioner submits that the petitioner is innocent and has not committed any offence. He submits that even assuming the First Information Report to be true, the two-month old daughter of the informant was handed over to one Neelu and the informant was accompanied Sushila Devi, Sunita Devi and Anil Ram. Informant did not meet the petitioner herein and therefore, there is no question of her involvement in the crime in question. He next submits that only while co-accused Neelu was speaking on telephone, she took the name of one Sushma and on that presumption, the petitioner has made an accused in the present case. The learned counsel for the petitioner submits that there is no material on record, establishing the identity of the said person and that of the petitioner and during course of investigation, nothing has come against the petitioner. He next submits that the petitioner never came in possession of the infant child and nor accompanied the informant or the other

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accused persons to Kota. He submits that only on suspicion, the petitioner has been implicated in the present case, since she is an employee of Indira IVF at Raja Bazar, where some other co-accused persons were also working. The learned counsel for the petitioner next submits that the petitioner has two small children and there is no one in the family to look after the young children, after the petitioner has been apprehended in the present case. He submits that in the entire First Information Report the allegations have been levelled against Sushila Devi, Sunita Devi, Anil Ram and Neelu and no specific or even any allegation has been levelled against the petitioner. The learned counsel for the petitioner submits that the petitioner is an accused in one another case bearing Banke Bazar P.S. Case No. 77 of 2025, however, in the said case, she is on bail and in the present case, she is in custody since 07.07.2026.

5. *Per contra,* the learned A.P.P. appearing on behalf of the State, while opposing the prayer for bail of the petitioner submits that the petitioner along with the other co-accused persons sold the two-month old infant daughter of the informant and had even sold the informant to one person.

6. Having considered the rival submissions and after going through the records as well as the materials available in

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the case-diary. This Court finds that the during course of investigation, many persons were apprehended and their statement under Section 161 of Cr.P.C. was recorded. From the confessional statement of accused Sunita Bhattacharya , Sunita Devi, Nilu Devi, Parth Bhattacharya, Shushila Devi, the petitioner herein, Mita Bhoumic, from whom the infant child of the informant was recovered from train have stated about the involvement of the petitioner in the crime in question and the petitioner herself in her confessional statement has accepted her guilt. In a recent decision of the Hon'ble Supreme Court of India in ***SLP (Crl) No. 18490 of 2026(Mrityunjay Kumar Chaudhary versus the State of Bihar and Another)*** the Hon'ble Supreme Court of India in paragraph No. 11 has observed that

> *"suffice it to notice that revisional order was in detail and specifically dealt with statement recorded under Section 161 of the Cr.P.C. and took prima facie view that there was material to enable the trial."*

7. The Hon'ble Supreme Court further recorded that we make it very clear that the view taken by the Additional Sessions Judge or by the learned Magistrate when taking cognizance or by us, in affirming the cognizance taken, shall not in any manner, regulate or govern the trial. Section 161 Cr.P.C. statement, obviously cannot be relied on a trial but definitely

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could be gone into at the time of cognizance, since that is the material available before the Court as produced by the police along with the final report.

8. Similarly in the recent decision of the Hon'ble Supreme Court of India in ***Cr. Appeal No. 4991 of 2026(Nagendra Ray Versus the State of Bihar and Anr.)*** the Hon'ble Supreme Court of India in paragraph No. 7 has held as:

> *"On perusal of the impugned orders granting relief to Kamakhya Singh and Ram Pratap Singh, it appears that the High Court completely omitted and failed to consider the aforementioned video footage, though reference to such video footage is found in the sessions court's orders. It also appears that the High Court, in all the impugned orders, failed to consider the statements of the witnesses under Section 161 of the Code of Criminal Procedure, 1973 who had identified the relevant accused upon being shown the video footage."*

9. The Hon'ble Supreme Court of India in the case of Nagendra Ray (Supra) while remitting back the matter, wherein an Hon'ble Judge of this Court had granted bail to some of the petitioners, has recorded that the Hon'ble Single Judge did not take into consideration, the statement of the accused recorded under Section 161 of the Cr. P.C.

10. In view of the recent decision of the Hon'ble Supreme Court of India this court is of the view that the

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statement of the witnesses, which has been recorded under Section 161 of the Cr.P.C. wherein, the complicity of the petitioner has come and even the statement of the petitioner recorded under Section 161 of the Cr.P.C. wherein, she accepted her guilt, which suggest the complicity of the petitioner in selling the two-month old infant daughter of the informant, this Court is not inclined to grant bail to the petitioner and the same is rejected.

**(Ritesh Kumar, J)**

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