

# VERDICTUM.IN

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ITEM NO.7

COURT NO.12

SECTION II-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 6298/2024

(Arising out of impugned final judgment and order dated 04-03-2024 in CRM No. 5495/2023 passed by the High Court Of Judicature At Patna)

ANJALI KUMARI

Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR.

Respondent(s)

IA No. 106991/2024 - EXEMPTION FROM FILING O.T.)

Date : 11-07-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Sunil Kumar Verma, AOR

For Respondent(s) Mr. Samir Ali Khan, AOR  
Mr. Pranjal Sharma, Adv.  
Mr. Kashif Irshad Khan, Adv.

Sameer Kumar, AOR  
Mr. Shah Rukh Ahmad, Adv.  
Ms. Somi Sharma, Adv.  
Mr. Mandeep Baisala, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave is sought for to assail the judgment and order dated 4.3.2024 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No. 5495 of 2023.

Heard learned counsel for the petitioner, learned counsel appearing for the State and also learned counsel for the complainant-caveator.

The petitioner is facing trial under Section 138 of the

Negotiable Instruments Act. Earlier, the petitioner was granted anticipatory bail and on the ground of its violation, non-bailable warrant was issued against the petitioner. She moved the trial court seeking recall of the warrant and enlargement on bail. The said application was disposed of. While considering the same, the trial court passed an order that the petitioner be released on bond of Rs.20,000/- with two sureties of the like amount and with the further direction that the applicant should pay 20% of the cheque amount to the complainant on the next date as a condition. It is challenging the said condition that the petitioner had moved the High Court by filing Criminal Miscellaneous No. 5495/2023 which culminated in the impugned order.

It is shocking that despite the decisions of this Court deprecating the practice of putting conditions partaking the nature of recovery, such orders are being issued. In that regard, learned counsel for the petitioner brought to our attention the decision in "Ramesh Kumar vs. The State of NCT of Delhi", [2023 INSC 596]. This Court deprecated the practice to reducing the process of criminal law into money recovery proceedings. It was held that the process of criminal law could not be utilized for arm-twisting and money-recovery. Particularly, while opposing the prayers for bail. In such circumstances, we have no hesitation to hold that the very condition to get released, the petitioner should pay 20% of the cheque amount, cannot be sustained. The upshot of the discussion is that the impugned orders invite modification in relation to the said condition.

In the said circumstances, order dated 4.1.2022 passed by the

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Judicial Magistrate, First Class, Bihar Sharif, Nalanda, which is confirmed by the High Court under the impugned order stands modified only as relates the condition requiring the petitioner to pay 20% of the cheque amount by setting aside the same. In other words, the grant of bail to the petitioner and conditions, if any, imposed therefor, other than the one set aside, would remain intact.

The special leave petition is disposed of as above.

Pending application(s), if any, stands disposed of.

(DR. NAVEEN RAWAL)  
DY. REGISTRAR

(MATHEW ABRAHAM)  
COURT MASTER (NSH)