ITEM NO.1 COURT NO.5 SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No.16198/2026

[Arising out of impugned final judgment and order dated 07-05-2026 in CRLM No. 4486/2026 passed by the High Court of Judicature at Patna]

MUKESH KUMAR @ MUKESH KUMAR SARRAF Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR. Respondent(s)

Date : 30-10-2026 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) : Mr. Navneet R.- 3475, AOR

For Respondent(s) :
Mr. Azmat Hayat Amanullah- 2758, AOR
Ms. Vanshita Gupta, Adv.

Mr. Karl P Rustomkhan, Adv.
Mr. Gyanendra Kumar, Adv.
Mr. Yashasvi Virendra- 4188, AOR

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

1. The petitioner has been denied anticipatory bail by the High Court in connection with FIR No.415/2024 registered at Police Station, Buxar Nagar Thana, Buxar, Bihar, for offences punishable under Sections 406, 420, 467, 468, 471/34 of the Indian Penal Code (For short, "IPC") and Section 138 of the Negotiable Instruments Act (For short, "NI Act").

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Digitally signed by VISHAL ANAND
Date: 2026.10.31 12:06:57 IST
Reason:

The complainant alleges that he paid an advance amount of 60 Lakhs to the petitioner and the other co-accused persons for purchase of a property. Subsequently, upon inquiry, the complainant discovered that the said property was disputed and encumbered with several legal issues. Thereafter, the complainant approached the

petitioner and demanded refund of the aforesaid amount. In response, the petitioner issued five cheques of Rs. 12 Lakhs each, totalling Rs.60 Lakhs. However, when the said cheques were presented for encashment, they were dishonoured by the bank, compelling the registration of aforementioned FIR.

3. Learned counsel for the petitioner challenged the impugned order on various grounds, including that inclusion of Section 138 of NI Act in an FIR registered and investigated by Police, alleging it to be wholly without jurisdiction and vitiating the proceedings to that extent, the FIR came to be registered after an unexplained delay of more than three years and the dispute between the parties arises out of financial transaction and monetary dealings, which are civil in nature.

4. After rejecting the anticipatory bail, the Learned Single Judge of the High Court regretfully went overboard. It was found that the petitioner appears to be involved in large-scale monetary transactions and deemed it appropriate to direct the Income Tax Department and the Sales Tax Department to furnish the details regarding the tax assessed and paid by the petitioner before the District Court. The State also does not support such direction. While considering bail applications, the High Court should either allow it or reject it and there is no point in making such order involving tax departments, who have a robust mechanism in place to find out evasion and curb it as also compensate the State by mulcting tax, interest and penalty. The Court in bail applications is concerned only with the culpability and never takes an adversarial role against the accused unless a case reveals such an apparent and compelling circumstance.

5. In the present case, we *prima facie* find that a commercial transaction was attempted to be converted into criminal liability. The Learned Counsel for the respondents submits that criminal antecedents of the petitioner should also be looked into. The present case was one of advancing of money for purchase of property secured by blank cheques which on presentation were dishonoured with endorsement "insufficient funds". We are not informed of any

proceedings under the NI Act or any Civil Suit having been filed for recovery of amounts. In above circumstances, we cannot but *prima facie* find that initiation of criminal proceeding is a strong arm tactic.

6. On a *prima facie* consideration of the material on record, we are of the opinion that the petitioner can be granted anticipatory bail.

7. Accordingly, we direct that, in the event of his arrest in connection with the offences referred to above, he shall be released on bail, subject to such terms and conditions as the Investigating Officer (for short, "I.O.") may deem fit to impose and subject further to his continued cooperation in the investigation.

8. Upon being released on bail by the I.O., the petitioner shall, pursuant to any direction issued by the I.O. or summons issued by the Chief Judicial Magistrate, Buxar (the jurisdictional court), appear before the jurisdictional court, furnish bail bonds, and ensure due appearance during the trial.

9. With the aforesaid, the petition stands disposed of.

10. Pending application(s), if any, also stand disposed of.

(VISHAL ANAND)
DEPUTY REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)