

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (Cr.) No. 801 of 2025

Rakhi Agrawal, W/o Sanjay Kumar Agrawal, R/o Plot No. 73, Oslo Society, Opposite Ambaji Temple, Sector-4, Gandhidham, P.O. Gandhidham, P.S. Gandhidham, District Kachchh-370201 (Gujarat)

.... Petitioner

Versus

1. The State of Jharkhand
2. Anup Sharma, S/o Santosh Sharma, R/o Manbad, P.O. & P.S.Jharia, District Dhanbad (Jharkhand)

.... Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner	: Mr. Indrajit Sinha, Advocate Mr. Rishav Kumar, Advocate Mr. Mayur Khandelwal, Advocate Ms. Gopika Kaul, Advocate
For the State	: Mr. Ranjan Kumar, AC to Sr. SC-I
For the Resp. No.2	: Mr. Sumeet Gadodia, Advocate Mrs. Shilpi Sandil, Advocate Mr. Prakhar Harit, Advocate Ms. Nidhi Lall, Advocate

Order No.04 / Dated : 20.01.2026.

1. Heard, learned counsel for the parties.
2. The instant Writ Petition (Cr.) has been filed for issuance of Writ in the nature of Certiorari for quashing the entire criminal proceedings in connection with First Information Report being Bankmore (Dhanbad) P.S. Case No.280 of 2025 dated 07.11.2025 (Annexure-1) registered for the offence punishable under Sections 316(5), 318(2), 338, 336(3), 340(2) & 3 (5) of the B.N.S, 2023 against the Petitioner.
3. Petitioner is the non-executive woman Director of Vimla Fuels & Metals Private Limited, whereas her husband is the Director of the said company.
4. The gravamen of allegation, as disclosed in the FIR, is that Vimla Fuels and Metals Private Limited and Vimala Met Coke Limited contracted a loan of Rs.5.85 Crores from the informant-company on executing one memorandum of understanding dated 30.09.2024 with Narayan Coke Private Limited (second party). The original title deeds were mortgaged by the first party which included the following properties as detailed in Para-2 of the Memorandum of Understanding: -

Sr.	Address of the Property	Current Owner	Registered Deed Details
1.	Office No.113, 1 st Floor, Rishabh Arcade, Plot No.83, Sector-8, Gandhidham-370201	Sanjay Kumar Agrawal	2201/ 12.03.2021
2.	Survey No.525 Village- Shikra, Taluka : Bhachau-370140	Vimla Metcoke Ltd.	3579/17.11.2021
3.	Survey No.361, Village : Lunva, Taluka : Bhachau-370140	Vimla Fuels & Metals Pvt. Ltd.	2794/05.06.2023
4.	Survey No.362/P2, Village Lunva, Taluka : Bhachau-370140	Vimla Fuels & Metals Pvt. Ltd.	2796/05.06.2023

5. The allegation against the first party is two folds.
- Firstly, loan was taken by mortgage of property as detailed in Column-2 although the same had been transferred by Vimla Metal Coke Limited on 07.11.2023 in favour of the present petitioner.
- Secondly, the properties as detailed in Column Nos.3 and 4 of Vimla Fuels and Metals Private Limited is being claimed by erstwhile owners for having been transferred to the company without any consideration amount.

ARGUMENT OF PETITIONER

6. It is argued by learned counsel for the petitioner that she being non-executive woman Director had not executed the said memorandum of understanding and was not directly involved in the negotiation leading to the execution of memorandum of understanding, therefore, she cannot be held liable for the same.
7. It is further argued that Hon’ble the Supreme Court in (2022) 10 SCC 152 [*Sunita Palita and Ors. Vs. Panchami Stone Quarry*] has held that liability depends on the role one plays in the affairs of one company and not on the designation or status alone as held by the Apex Court in **S. M. S. Pharmaceuticals Ltd. vs. Neeta Bhalla [(2005) 8 SCC 89]**. In the said case, the Apex Court held that the appellant being non-executive Director of the company was not involved in the day-to-day affairs of the company, therefore, the proceeding under Section 138 of the N. I. Act was dropped.
8. It is argued that even if, it is assumed that the consideration amount has not been received by the sellers with respect to the property(s), as detailed in Column -3 & 4, it was incumbent on the part of the said sellers to have

instituted a money suit and it will have no bearing on the execution of the sale-deed(s) executed in favour of the company. Even otherwise, it is contended that absence of a complete title will not operate as a bar to create a mortgage by deposit of a title deed as held by the Apex Court in **2007 (8) SCC 361 [Para-28] (Syndicate Bank vs. Estate Officer & Manager, APIIC Ltd. & Ors.)**

9. Lastly, it is argued that even if it is assumed that the petitioner was full-fledged Director of the said company, unless and until her role in execution of the memorandum of understanding could be delineated, vicarious liability per se cannot be attached in view of the ratio laid down by the Apex Court in **2020 (3) SCC 240 [Para 7.5] [Sushil Sethi and Anr. Vs. State of Arunachal Pradesh and Ors.]**

ARGUMENT OF RESPONDENT

10. Learned counsel appearing on behalf of the respondent no. 2 opens his argument by disputing the assertions made on behalf of the petitioner that she was not a Director in the Company, rather she was a non-executive Director. An interlocutory application dated 19.12.2025 has been filed enclosing photostat copy of MCA data base dated 17.02.2025 in which she has been shown to be director of Vimala Fuels and Metals Private Limited. Further, the photostat copy of Form No. DIR- 12 along with the receipt thereof by which the petitioner submitted her resignation and ceased to be director of the said company with effect from 06.02.2025 has also been filed by way of Annexure-1 A-E to the interlocutory application. In letter addressed by Chief Manager, State Bank of India to Inspector of Police, Gandhidham Police Station dated 28.10.2024 whereby the position of the petitioner has been shown to be director of the said company.
11. It is further submitted that the plea of non-executive director in the company taken by this petitioner before the High Court of Gujarat in R/Criminal Misc. Application No. 10055 of 2025 with R/Criminal Misc. Application No. 6701 of 2025 for grant of anticipatory bail was not accepted and the anticipatory bail application was rejected against which the petitioner preferred Special Leave Petition before Hon'ble Supreme Court. The Apex Court also did not accept the said plea and allowed anticipatory bail only on the condition of deposit of sum of Rs. 7.5 crore as security.

12. With regard to the specific role, it is submitted that petitioner being the director of the company, the loan amount was advanced to the company only on the basis of mortgage of the land which did not even exist in the ownership of the company on the date of execution of the said mortgage. The said loan, in question, had already been transferred in the name of this petitioner; therefore, she can be imputed with knowledge about the transfer of land and despite that said knowledge, the deed was executed in favour of the informant-company.

ANALYSIS

13. The matter for consideration before this Court is “Whether not joining the memorandum of understanding and signing over it can be a ground for quashing the FIR against the petitioner or any other director?”

14. What is there in a name? Shakespearean idiomatic expression to a large extent captures the principles of liability of a director for the acts committed in the name of a company. It is not the name that matters so much, but the role played in the alleged act that is relevant to ascribe liability of the person so involved.

15. Section 149(1) of the Companies Act, 2013 saddles the directors with liabilities for the acts of the Company. Further, under Section 149(12) even a non-executive director shall be liable for an act or omission which has been committed and is within his knowledge. With regard to the liability of the non-executive director, the extent of liability has been dealt with in **(2022) 10 SCC 152 (Sunita Palita & Ors. Vs. Panchami Stone Quarry)** wherein it has been held that it depends on the role one plays in the affairs of a Company and not on designations or status alone as earlier held by the Hon’ble Apex Court in **SMS Pharmaceuticals Ltd. Vs. Neeta Bhalla {(2005) 8 SCC 89}**.

16. Further, the scope of judicial scrutiny at the stage of quashing of the FIR has been set out in **Niharika Infrastructures Pvt. Ltd. Vs. State of Maharashtra {(2021) 19 SCC 401}** wherein it has been held that while examining an FIR/complaint, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint. In *Maharashtra State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd.*, (2010) 10 SCC 479 criminal liability was sought to be fastened on the Chairman of the Electricity Board for use of a forged

document in an arbitral proceeding. It was held that such a liability cannot be fixed, as the relevant resolution merely authorised the Chief Engineer to file counter-claim before the Arbitral Tribunal who was made responsible for looking after the interest of Appellant 1 in those proceedings.

17. Matter boils down to the role played by the petitioner in obtaining loan on behalf of the company by mortgaging a bogus document of title, with respect to a property in which the title had been transferred from the name of the company to the name of the Petitioner.

18. So far, this petitioner is concerned allegation is that out of the four sale deeds which were mortgaged, to obtain the loan, one of them pertaining to Survey No.525, village Shikra, Taluka: Bhachan-370140 had not remained in the ownership of the company, as the same had been transferred by registered sale deed, no.3579 on 17.11.2021 in her name. One of the Director of the company, being her husband, it does not stand to reason that she was completely oblivious of the fact that loan was being contracted in the name of the company by mortgaging a property which had ceased to be in its ownership. Although she was not a signatory to the MOU, but being the director of the company can also be said to be an overall beneficiary of the loan contracted.

19. Under the circumstance and for the reasons discussed above, this Court is of the view that this is not a fit case for quashing of FIR.

Writ Petition accordingly stands dismissed. Pending I.A., if any, stands disposed of.

(Gautam Kumar Choudhary, J.)

Pawan /Sandeep/
Uploaded
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