

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43722 of 2014

Arising Out of PS.Case No. -750 Year- 2008 Thana -BHAGALPUR KOTWALI District-
BHAGALPUR

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Abhimanu Kumar @ Mukesh Kumar Son of Late Ramasaray Prasad
Resident of Village- Bhabanchak, P.S.- Sakchohra (Barh), District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Registrar, T.M. Bhagalpur University, Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Anjani Pd. Singh, Adv.
For the Opposite Party/s : Mr. Prem Kr.Jha (APP)
Mr. Ashhar Mustafa, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 20-03-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for offence under Section 409, 419, 420, 422, 423, 467, 468, 471, 474 & 478 of the Indian Penal Code and the stand of the informant in the counter affidavit filed on behalf of the Tilka Manjhi Bhagalpur University, that a sum of Rs. 4,77,000/- is yet to be recovered from the petitioner, this Court keeping in view of the only defence of the petitioner that such amount has to be recovered not only from the petitioner but also three others or that under power of attorney given by the Contractor to the petitioner, his job was only to receive amount from the University, would not find the petitioner to be entitled for regular bail because ultimately



out of the alleged loss of Rs. 7,51,000/- only 2,74,000/- has been recovered and that too on account of deduction of the amount from the final bill of the petitioner. As a matter of fact, the loss of Rs. 7,51,000/- has already been sustained by the University and, therefore, whether the petitioner was the power of attorney holder of the Contractor or had any access to the amount already drawn by the Contractor will not absolve his responsibility.

This Court would accordingly direct that if the petitioner deposits a sum of Rs. one lac which would at least square up to the tune of Rs. 50% of the total loss of the University, the petitioner namely, Abhimanu Kumar @ Mukesh Kumar shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bhagalpur in connection with Kotwali (University) P.S. Case No. 750 of 2008, subject to the following conditions:-

- (i) The petitioner shall deposit a sum of Rs. 1 lac without prejudice to his rights and this amount shall be paid by the Court to opposite party no. 2.
- (ii) That both the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors

will also undertake to inform the court if there is any change in the address of the petitioner.

- (iii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.
- (iv) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.
- (v) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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