

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18824 of 2015

Arising Out of PS.Case No. -80 Year- 2015 Thana -KRITYANAND NAGAR District- PURNIA

Ashwani Kumar Singh @ Ashwini Kumar Singh, son of Late Badri Narain Singh, resident of village- Sahwan Khut Shyama Bazar, P.O.- Bhatotar Chakla, P.S.- Barhara Kothi, District- Purnia.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Upadhyaya

For the Opposite Party/s : Mr. S.M.Rahman(App)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-06-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 406, 420, 409, 467, 471 of the Indian Penal Code, this Court, having found that there is a direct allegation on the petitioner of misappropriating and/or causing embezzlement of Rs. 16,03,039/-, is not inclined to grant privilege of anticipatory bail.

When such an observation has been made, learned counsel for the petitioner has submitted that even if the allegation be held to be partly true and the petitioner is liable for refund, his retirement benefit as a whole has not been paid as yet and, therefore, the respondents can recover the said amount from the payables to the petitioner.

Since the petitioner is holding the post of Cashier, his



retirement benefit can never of Rs. 16,03,039/- and, therefore, this Court, taking into account the nature of allegation as also the preparedness of the petitioner to repay the amount of embezzlement from the retirement benefit, would direct that if the petitioner, namely, Ashwani Kumar Singh @ Ashwini Kumar Singh, surrenders and gives an undertaking to pay at least 50% of the amount in four equal bi-monthly installments, he shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Smt. Shashi Mishra, J.M., 1st Class, Purnea or court in sessions in connection with K. Nagar (Sri Nagar) P.S. Case No. 80 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

(i) The petitioner must pay a sum of Rs. 2 lac at the time of his surrender through a bank draft payable in the name of the Collector of Purnea district. If the petitioner does so, he shall be granted provisional bail for a period of two months whereafter he must surrender and pay a second installment of Rs. 2 lac. If he does so, he will again be granted provisional bail again for a period of two months. Thereafter, the petitioner again must appear and pay third installment of Rs. 2 lacs and if he deposits the said amount, he would be again granted provisional bail again for a



period of two months. This time, after payment of Rs. 6 lacs, if the petitioner appears and pay further Rs. 2 lac, the provisional bail shall be confirmed. Let it be made clear all these payment of four installments each of Rs. 2 lacs shall be made by the bank draft in the name of the Collector of Purnea district which shall be immediately handed over to the office of the Collector of Purnea district for its being kept on account and made subject to the criminal case.

(ii) The Collector of Purnea district will also get the accounting done and whatever balance amount is found payable from the petitioner would be recovered from his retirement benefit before making any payment to the petitioner.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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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