IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25173 of 2015

Arising Out of PS.Case No. -99 Year- 2013 Thana -JAMUI District- JAMUI

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Saurabh Data S/o Sri Vijay Data Resident of Bhagwati Sadan, S.D. Marg, Near Railway Station, Alwar (Rajasthan).

.... Petitioner

Versus

The State of Bihar .... Opposite Party

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Appearance :

For the Petitioner : Mr. Rajendra Narain, Senior Advocate
Mr. Kunj Bihari Sharan, Advocate
Mrs. Anju Kumari @ Anju Narain, Advocate

For the Opposite Party : Dr. Indiwar Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

2 08-07-2015 This is an application, made under Section 438 of the Code of Criminal Procedure, seeking pre-arrest bail by the petitioner, namely, Saurabh Data, in connection with Jamui Police Station Case No. 99 of 2013 under Sections 406/420/467/468/471 read with Section 34 of the Indian Penal Code.

Perused the above application and materials on record including a copy of the order, dated 20.03.2015, passed, in A.B.P. No. 1190 of 2014, by the learned Sessions Judge, Jamui, dismissing the said application for pre-arrest bail.

Heard Mr. Rajendra Narain, learned Senior Counsel for the petitioner, and Dr. Indiwar Kumari, learned Additional Public Prosecutor, appearing on behalf of the State.

The case of the petitioner, as reflected by this application seeking pre-arrest bail, is as under:

"10. That the informant was doing business with the company for sale of its edible oil and palm oil products since long. In business world, not only with the present company, but with many other companies, orders are also taken/accepted from old and regular patrons over telephone and both parties honour such commitments of booking over telephone, delivery of the goods kept in reserve on such bookings on payment of its price.

11. That around the end of August, 2012, and beginning of September, 2012, the informant placed orders for about 13000 tins of refined & Palm oil and the same was kept separately in stock for the informant. The informant did not turn up for quick delivery on payment of price of such stock which remained idle for long and in the meantime the market price of Palm oil fell down. When the company's officials took up the matter with the informant he agreed to pay the difference amount of Rs.13,86,865/- for which a debit note dated 04.01.2013 was sent to the informant and he gave three cheques for Rs.1,65,000/- dated 23.01.2013, Rs.5,00,000/- dated 22.02.2013, and Rs.7,21,456/- dated 25.02.2013. The cheque for Rs.1,65,000/- was encashed by the payee company. Subsequently the two other cheques were also deposited for encashment, but they bounced back from the drawee bank. The informant was immediately contacted by the officials of the company. He kept on assuring them for repayment thereof, but it became clear that he was only purchasing and whiling away time.

12. That the company seeing no other way out sent advocate's notice but no payments were made so the company filed Complaint case against the present informant in the Court of the Chief Judicial Magistrate, Alwar (Rajasthan), for offence under Section 138 N.I. Act, and after completing the process, the learned Court by its order dated 08.05.2013 took cognizance of the offence under Section 138 N.I. Act against the present informant. Summons were also ordered to be issued.

13. That on coming to know about the

filing of the case under Section 138 N.I. Act, and of taking cognizance in it, the present informant filed the F.I.R.

14. That the informant did not keep quiet by filing the F.I.R. alone, but also filed money Suit No.2 of 2013 on 19.08.2013 in the Court of Sub-Judge-1, Jamui, on behalf of his proprietorship concern against the company through its officials giving his version of the matter taking a plea that he had issued the said cheques as security for doing business with the company, but the said cheques were filled up and encashed and attempted to be encashed by the company.

15. That the informant's version in the plaint of the Money Suit admits the case of the Company that verbal orders were being taken and in this business system/practice parties proceeded and worked ever since the informant entered into business relationship with the company since the last 5 years which can also be substantiated by the copy of the ledger account contain the transaction of the informant's proprietorship firm with the company which can be produced before the Hon'ble Court."

Taking into account the above submissions, which have been made by the petitioner, this Court is of the view that the petitioner, in the facts and the attending circumstances, has been able to make out a case calling for appropriate direction for pre-arrest bail.

Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that the petitioner above-named shall, in the event of his arrest in connection with the case aforementioned, be released on bail of Rs. 10,000/-, with two sureties, each of the like amount, subject to the satisfaction of the Officer-in-Charge, Jamui Police Station, Jamui. This direction for bail is further subject to the condition that the petitioner above-named shall, within two weeks from today, appear before the Officer-in-Charge, Jamui Police Station, Jamui, and make himself available for interrogation by police at all reasonable time and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

This application for pre-arrest bail shall stand disposed of in terms of the above observations and directions.

Let a copy of this order be sent, forthwith, to the Officer-in-Charge, Jamui Police Station, Jamui.

Send also a copy of this order, forthwith, to the Superintendent of Police, Jamui, by fax.

(I. A. Ansari, J)

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