IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15976 of 2015

Arising Out of PS.Case No. -416 Year- 2006 Thana -BEGUSARAI TOWN District- BEGUSARAI

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Binod Kumar Jha S/o Sri Anirudh Jha R/o Moh - Saheban hatta, Srinagar Road P.S. - Khajanchi hat District - Purnea at present residing at Mohalla - Tilkamanjhi District - Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Man Bansh, Adv

For the Opposite Party/s : Mr. C.Sen Pd.Singh(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

4 03-09-2015 Since this case has been restored today vide separate order passed in Criminal Miscellaneous No. 36477 of 2015, this Court has also heard learned counsel for the parties, on the merits of this case.

2. The petitioner apprehending his arrest in connection with Begusarai Town P.S. Case No.416 of 2006, for the offences punishable under Sections-419, 420, 467, 468, 471/34 of the Indian Penal Code, has come out to say that he is a bank official, whose involvement in this case had never surfaced even when the trial of the co-accused had already been in progress.

Learned counsel for the petitioner in fact has gone to explain that it is only in the supplementary investigation and the consequential submission of the case diary that the role of the petitioner in capacity of Bank Manager in the alleged fraudulent opening of the account and encashment from the bank account has allegedly surfaced. In this regard, learned counsel has explained that it is true that the petitioner was the concerned Bank Manager, who had opened the bank account in question but then it was the bonafide act on the part of the petitioner, inasmuch as, the signature of the two persons for opening the bank account was verified by one Vijay Kumar Singh, another Manager of the Bank and the petitioner thereafter had put his signature on the application cum specimen signature card saving bank account.

3. To that extent, he also places reliance on the documents filed by the petitioner by way of supplementary affidavit. What has further been

highlighted by learned counsel for the petitioner for the purposes of grant of anticipatory bail, is that, not only the amount in question allegedly defrauded has been already deposited in the bank but Vijay Kumar Singh another Manager, who was the satyapankarta has been left by the police and the neck of the petitioner alone has been caught.

4. In the considered opinion of this Court, mere holding of the trial of the co-accused in no way could have come in the way of the police to hold supplementary investigation because the investigating agency has to zero the culpability of the officials of the bank, who were responsible in opening a fictitious bank account in the name of Sheela Devi and Jiwnath Jha. It is here that the investigation had proceeded and in course of verification of the thumb impression on the disputed documents including application cum specimen signature card saving bank account to Shilla Devi and Jiwnath Jha, which was found by the Chief Estate

Examiner cum Director of Finger Print Expert that the allegation in the First Information Report of impersonation and consequently forgery was found to be correct.

5. Now, when this finding has surfaced, the police obviously has to find out as to who were the persons, representing the bank with whose connivance such impersonation could be made. The signature of only two persons being there in the specimen form, either of Vijay Kumar Singh or the petitioner as an authorised signatory and therefore, the police had to also investigate the role of both of them. This Court would also find from the documents in question namely, the application cum specimen signature card that there has been an interpolation in the signature by the side of the thumb impression and therefore if the petitioner had put his signature, is an authorized signatory of the bank, it was his duty to counter sign on such cutting failing which the presumption would be that the petitioner was

also a party to such interpolation/cutting in the specimen form of Sheela Devi and Jiwnath Jha. This Court however will not like to rush to any conclusion because the trial of the petitioner is still to be held.

6. The only other submission of learned counsel for the petitioner that the bank has not been put to loss because the amount ultimately has been recovered is also not palatable to this court. The Bank admittedly had lost the amount and after great effort that amount could be recovered. That will not mean that the period for which the bank was deprived of the amount will not be a loss. Law also recognizes the concept of temporary embezzlement.

7. Finally, the submission that the police had left Vijay Kumar Singh another Manager of the bank by only holding the petitioner responsible for the alleged offence has to be also judged in the background that not everything is over, because if the role and complicity of Vinay Kumar Singh would surface, he can still be made

accused the police on the basis of materials collected against him in the ongoing investigation or can be summoned even by the trial Court in exercise of power conferred under Section-319 of the Cr.P.C., but that, however, cannot be a ground for granting anticipatory bail to the petitioner whose complicity, prima facie, appears to be there.

8. Thus, for the reasons indicated above the prayer for anticipatory bail of the petitioners is hereby rejected.

9. Nonetheless, the petitioner will definitely have a right to seek regular bail, therefore, if the petitioner would surrender before the Court below and make a prayer for regular bail, his case would be decided on its own merits without being prejudiced by anything said in this order, which only has been recorded in answer to the submissions made by learned counsel for the petitioner.

(Mihir Kumar Jha, J)

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