IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15169 of 2016

Arising Out of PS.Case No. -452 Year- 2015 Thana -MOHANIA District- BHABHUA (KAIMUR)
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Nagendra Prasad Jaiswal, son of late Jagarnath Prasad Jaiswal
.... Petitioner/s
Versus
The State of Bihar
.... Opposite Party/s
==
Appearance :
For the Petitioner/s : Mr. Arun Kumar Singh, Advocate
For the Opposite Party/s : Mr. Smt.Sangeeta Sharma (App)
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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 12-04-2016 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Section 409/34 of the Indian Penal Code.

The prosecution case is that the Madhya Bihar Gramin Bank sanctioned a loan of rupees fifteen lakhs on 10.01.2012 to co-accused Mahendra Prasad Jaiswal, the proprietor of Maa Mundeshwary Traders, Mohania, the younger brother of the petitioner. The petitioner became guarantor of the loan and the loanee submitted sale deed of the land purchased in 2010 from his brother, as surety. Subsequently, the loan account became NPA and loan amount was not returned when notices under the SARFAESI Act were issued and thereafter it was found that the said mortgaged land was earlier mortgaged to another bank i.e.

Punjab National Bank by the petitioner. Hence, the petitioner sold the alleged mortgaged land to his brother

It is submitted by learned counsel for the petitioner that the thrust of accusation is against co-accused Mahendra Prasad Jaiswal, who has been granted bail vide Criminal Miscellaneous No.9173/2016 on the undertaking that he is ready to liquidate the entire dues amount.

No doubt, loanee is co-accused Mahendra Prasad Jaiswal but the petitioner being the guarantor transferred a land in favour of Mahendra Prasad Jaiswal, which has already been mortgaged to the Punjab National Bank by the petitioner. Hence, the petitioner being guarantor is also liable for repayment of loan amount**.**

It is submitted by learned counsel for the petitioner that brother of the petitioner is making effort to repay the due loan amount with interest.

Considering the aforesaid facts, let the above named petitioner be released on provisional anticipatory bail for six months, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Kaimur

(Bhabhua) in connection with Mohania P.S. Case No.452/2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional anticipatory bail of the petitioner shall be confirmed by the learned court below on production of proof of repayment of entire loan amount to the bank or on production of no dues certificate issued by the bank concerned.

(Dinesh Kumar Singh, J)

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