IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19562 of 2016

Arising Out of PS.Case No. -46 Year- 2013 Thana -ECONOMIC OFFENCES, BIHAR District- PATNA

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Sushil Kumar Verma, the then Branch Manager, Oriental Bank of Commerce, Patna City, S/o Late Devi Charan Verma, resident of Block- B Saket Vihar, Anisabad, P.S. Phulwari Sharif, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Economic Offence Unit, Patna, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha, Sr. Advocate
Mr. Santosh Kumar Singh

For the EOU : Mr. V.N.P.Sinha, Sr. Advocate
Ms. Soni Shrivastava

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

5 08-08-2016 Heard learned Senior Counsel for the petitioner and learned Senior Counsel appearing on behalf of the Economic Offence Unit.

The petitioner being the Branch Manager of Oriental Bank of Commence, Patna City Branch, apprehends his arrest in connection with Economic Offences P.S. Case No. 46/2013 registered for the offences punishable under Sections 406/ 420/465/467/468/471 and 120B of the Indian Penal Code.

The allegation against the petitioner is that he was instrumental in release of loan to one Sunil Kumar Rai and in order to secure the same, he had taken on pledge with the Bank NSCs totaling to five hundred in number, each of rupees ten thousand, which is said to have been issued by Sahdei Buzurg Post Office in the district of Vaishali. On the basis of such government security, a total amount of Rs. 73.57 lacs was disbursed in favour of the accused Sunil Kumar Rai by releasing loan in his favour on three different dates, i.e., Rs. 11.25 lacs on 03.09.2013, Rs. 17,32, 500/- on 17.09.2013 and Rs. 45 lacs on 10.10.2013. For the said disbursement, the petitioner had taken a pledge of 150 NSCs on one occasion, 231 NSCs on second occasion and lastly 500 NSCs. The petitioner was also responsible for opening the Bank account in the name of the said Shri Sunil Kumar Rai on 23.08.2013 itself. The allegation thus, is that, the petitioner in conspiracy with said Sunil Kumar Rai, had caused the Bank to be defrauded and the Bank had suffered a loss of Rs. 73.57 lacs.

Learned Senior Counsel appearing on behalf of the petitioner, submits that all along the petitioner exercised due care and had personally gone to ascertain the address of the account holder and the given address was found to be of the cousin of the petitioner and, therefore, the said Bank account was opened in favour of Sunil Kumar Rai. He further submitted that on each of the occasions, the Branch Manager himself had taken pains to go to the concerned Post Office at Sahdei Buzurg Post Office in the district of Vaishali, for having the NSCs deposited for being pledged and ascertained at the Post Office. It was only, thereafter, that the loans were issued and disbursed in favour of the said Sunil Kumar Rai. However, such NSCs were found to be forged and, therefore, the liability was attached to the petitioner that he had been guilty of irregular disbursement of loan and was also guilty of dereliction of duty. As such, there was no criminality attached in the case and he had already been proceeded departmentally. The Bank after due consideration of his show-cause and explanation, had imposed the punishment of withholding of three increments. Thereafter, the petitioner has been regularly performing his duties in the Bank and there is no likelihood of his tampering with evidence or absconding from the trial. As such, the petitioner may be extended the privilege of anticipatory bail.

Learned Senior Counsel for the Economic Offence Unit has submitted on the other hand that the Branch Manager was squarely responsible and guilty of the offence as alleged in the First Information Report. He further submits, that at the very outset, he was much interested in opening the account and went to verify the address of the accused Sunil Kumar Rai himself. On having pointed out by Smt. Julee Kumari, a Branch Staff, that the PAN Card submitted by the accused Sunil Kumar Rai, was not correct and that the particulars did not match, he had instructed her to open the account as he knew the party personally. Furthermore, he submits that all along the petitioner was in undue haste and tried to do everything himself. He further submits that the petitioner has released three installments of loans i.e., on 03.09.2013, 17.09.2013 and 10.10.2013 in which he had disbursed loans to tune of Rs. 11.25 lacs, 17,32,500/- and lastly 45,00,000/- which was much beyond his powers. It was further submitted that the Branch Manager is only entitled to sanction loans up to an amount of rupees ten lacs but the petitioner, again and again, without verification of the documents, proceeded to sanction the loan and even released the amount in favour of said Sunil Kumar Rai. It has also been submitted, that the purpose of the loan and its true verification, were never made at the hands of the petitioner. The petitioner did not look into every aspect of the matter, right from the outset and despite instructions from the Bank that he should verify the loan and not sanction it till the limit of rupees eighty lacs without proper verification, the petitioner proceeded to do so. Furthermore, the sanction of loan taken against Government securities, could have been made only for a period of three years. However, the petitioner in violation of such guidelines, has also sanctioned the aforementioned loans in which the borrower has been given the liberty to return the same in five years. It was thus directed by the Controlling Office that the petitioner should also rectify such anomaly, but despite thereof the petitioner proceeded to sanction a further loan of rupees forty-five lacs. Referring to the letter written by the petitioner dated 19.12.2013, learned Senior Counsel submitted that this was done by the petitioner, after the Bank had already issued clear-cut instructions that a First Information Report be instituted on 12.12.2013, itself which came to be the basis of the present First Information Report.

The statement of the Post Master concerned has also been taken into consideration wherein at paragraph No. 45 of the case diary, he has stated that none of the NSCs which was sought to be pledged were issued by the concerned Post Office nor had they been ever pledged at the such Post Office by the Bank. Lastly, it was contended that the calls details of the alleged accused Sunil Kumar Rai were also ascertained and in that too, it was found that the said SIM number i.e., 8507086978 and another number is 8540829265 (Paragraph No. 59 and 60 of the case diary) had been continuously communicating with SIM No. 9905690003. The said number 9905690003 happens to belong to the son of the present petitioner and, therefore, the nexus between this petitioner and the accused Sunil Kumar Rai whose number has since been found to be switched off or not reachable, is clearly indicative of conspiracy between the petitioner and accused Sunil Kumar Rai.

Having considered all aspects of the matter and taking into consideration, the submissions of the parties, I find that a prima facie case is made out against the petitioner Sushil Kumar Verma. As such, I am not inclined to grant anticipatory bail to this petitioner. It is accordingly rejected.

(Anjana Mishra, J)

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