

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.188 of 2016

Arising Out of PS.Case No. -467 Year- 2015 Thana -BEGUSARAI TOWN District- BEGUSARAI

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Ajay Kumar, Son of Late Lal Bihari Mahto, Resident of Village-
Samastipur, P.O.- Lakhanpur, P.S.- Bhagwanpur, District- Begusarai.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner	:	Mr. N. K. Agarwal, Sr. Advocate Mr. Sanjeet Kumar, Mr. Raj Kumar, Advocates
For the State	:	Mr. Manish Kumar 2, Advocate
For the Informant	:	Dr. Amrendra Kumar, Mr. Manish Rai Sharma, Advocates

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 17-02-2016 Heard learned counsel for the petitioner, the State
and the informant.

Petitioner apprehends his arrest in a case filed
under Sections 467, 468, 406 and 420 of the Indian Penal Code.

It is contended on behalf of the petitioner that there
has been two versions in the first information report regarding
encashment of cheques. First is that two volumes of cheques were
signed by the informant and given to one Manoj Kumar which has
been mis-utilized by the petitioner and the others. Second version
is that on some cheque books, the petitioner has fraudulently put
the signature of the informant and misappropriated the money.

Altogether, there is allegation of misappropriation of Rs.62,09550/-. However, from the statement appended with the first information report, it appears that on 14.11.2014 Rs.8,50,000/- has been withdrawn through cheque no.501 by the petitioner.

The defence of the petitioner is that he has distributed Rs.6,50,000/- among the beneficiaries and the remaining Rs.2,00000/- have been returned back.

However, such defence cannot be considered and accepted at this Stage but interestingly the matter does not end here as it appears that there was further inquiry by the higher official of the State Government and in which even the informant has been found guilty of misappropriation of the aforesaid amount of Rs.65,00000/- and on the basis of information given by the District Agriculture Officer, Begusarai, an F.I.R. bearing Muffasil P.S. Case No.38/2016 has been registered against the informant of this case, who happens to be the Block Agriculture Officer, and unknown persons. It is contended on behalf of the petitioner that the aforesaid F.I.R. demolishes the case of the informant that money has been misappropriated by the petitioner and the others as actually the informant himself has been found to have misappropriated the same.

Learned counsel for the petitioner further submits that the petitioner is ready to return the balance amount of Rs.6,50,000/- subject to the result of the case and without prejudice to his defence.

Learned counsel for the informant has submitted that during the relevant period informant was being treated at Valley View Hospital, Calcutta as he was suffering from cancer and the petitioner and others have taken advantage of this.

Be that as it may, at this stage, when the F.I.R. has been lodged by the informant against the petitioner and others showing the money withdrawn by them in the statement appended therewith but, subsequently, F.I.R. has been lodged by the senior official of the Agriculture Department, after enquiry, against the informant himself for misappropriation of that money along with other persons, this Court is inclined to grant provisional anticipatory bail to the petitioner for three months.

Having regards to the facts and circumstances of the case, in the event of arrest/surrender within a period of six weeks from today in Begusarai Town P.S. Case No.467/2015, the above named petitioner, Ajay Kumar shall be released on provisional bail on furnishing bail bond of Rs.10,000(Ten Thousand Rupees) with two sureties of the like amount each to the

satisfaction of the Chief Judicial Magistrate, Begusarai subject to the conditions as laid down under sub-section (2) of Section 438 of the Code of Criminal Procedure with a further condition that as he would deposit Rs.2,00000/- at the time of surrender. Remaining Rs.4,50,000/- has also to be deposited by him in the following manner.

He would deposit Rs.1,00000/- within a fortnight and, thereafter, within every subsequent fortnight he would have to deposit Rs.1,00000/- but in the last fortnight he would deposit Rs.1,50,000/-. If the petitioner deposits the aforesaid amount of Rs.6,50,000/- within the aforesaid period and aforesaid manner, the provisional anticipatory bail granted to him would be made absolute by the court below.

However, the aforesaid deposit would be subject to the result of the criminal case and without prejudice to the defence which would be taken by the petitioner during the course of the trial.

(Dr. Ravi Ranjan, J)

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