

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12601 of 2016

Arising Out of PS.Case No. -15 Year- 2016 Thana -CHAKIA District- EAST CHAMPARAN
(MOTIHARI)

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Akhileshwar Pandey, S/o Late Prasidh Pandey, resident of Village - Seru Kanhi, P.S. - Kanti, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Manager, State Bank of India Branch, Bara Chakiya, East Champaran (Motihari).

.... Opposite Party/s

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With

Criminal Miscellaneous No.12815 of 2016

Arising Out of PS.Case No. -15 Year- 2016 Thana -CHAKIA District- EAST CHAMPARAN
(MOTIHARI)

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Sanjay Kumar, son of Late Raj Nandan Singh, Resident of Village- Sorampur, P.S.- Dulhin Bazar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chief Manager, State Bank of India, Branch - Bara Chakiya, East Champaran.

.... Opposite Party/s

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Appearance:

(In Cr. Misc. No.12601 of 2016)

For the Petitioner/s : Mr. Yugal Kishore and
Mr. Shashi Bhushan Singh, Advocates.
For the Opposite Party/s : Mr. Surendra Pd. Singh, A.P.P.
For the State Bank of India : Mr. Kaushalendra Kumar Singh, Advocate.

(In Cr. Misc. No.12815 of 2016)

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate and
Mr. Pushpendra Kumar Singh, Advocate.
For the Opposite Party/s : Mr. Kr. Ranjit Ranjan, A.P.P.
For the State Bank of India : Mr. Kaushalendra Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

11 03-08-2016 Heard learned counsels for the petitioners, learned

A.P.P. as well as learned counsel appearing on behalf of the

opposite party no. 2 State Bank of India.

The petitioner in Cr. Misc. No. 12601/2016, namely, Akhileshwar Pandey and the petitioner in Cr. Misc. no. 12815/2016, namely, Sanjay Kumar, apprehend their arrest in Chakiya P.S. Case No. 15 of 2016 registered under Sections 420, 407, 409, 120(B) of the Indian Penal Code.

The Chief Manager, State Bank of India, Bara Chakiya, East Champaran alleged that Bijendra Kumar, Deputy Manager (Accountant) and Sanjay Kumar, Assistant, (the petitioner), were the In-charge of three ATMs falling in the area of Bara Chakiya. The petitioner Akhileshwar Pandey, Deputy Manager (Accountant), took over charge of the ATM from Bijendra Kumar on 05.12.2015. The ATM was found out of order and the petitioner Akhileshwar Pandey went to inspect the ATM on 08.12.2015 and 10.12.2015 with an engineer, namely, Manish Kumar Singh. When the Branch Manager of other branch of SBI inspected for verification in the ATM, shortage of rupees eight lacs was found.

Sri Yugal Kishore and Sri Nawal Kishore Agrawal, learned senior counsels appearing on behalf of the petitioners, submitted that admittedly there is a loss of rupees eight lacs caused to the Bank. Bijendra Kumar, Deputy Manager



(Accountant) was the In-charge of the ATM since 2014 and the petitioners, namely, Akhileshwar Pandey and Sanjay Kumar took over charge of the ATM on 05.12.2015. Cash was loaded in the ATM on 19.09.2015. Thereafter, inspection was made and shortage of rupees eight lacs was found. It is submitted that till date it has nowhere come as to who is responsible for the shortage of money in the ATM but all the three officials, namely, Bijendra Kumar, Akhileshwar Pandey and Sanjay Kumar, who were In-charge of the ATM, were accountable for the loss caused to the Bank.

Sri Yugal Kishore, learned counsel for the petitioner Akhileshwar Pandey, and Sri Nawal Kishore Agrawal, learned counsel for the petitioner Sanjay Kumar, further submitted that petitioners Akhileshwar Pandey and Sanjay Kumar are ready to deposit rupees three lacs and two lacs respectively in order to compensate the loss caused to the Bank subject to the final outcome in the departmental proceedings. It is also submitted that Bijendra Kumar, Deputy Manager (Accountant), who was In-charge of the ATM before handing over charge to Akhileshwar Pandey, is also held responsible for the loss caused to the Bank.

Sri Kaushalendra Kumar Singh, learned counsel appearing on behalf of the State Bank of India, submitted that if

the loss caused to the Bank is compensated, the Bank has got no objection in granting anticipatory bail to the petitioners.

Considering the facts aforesaid, if the petitioner Akhileshwar Pandey deposits rupees three lacs and the petitioner Sanjay Kumar deposits rupees two lacs within one month from today in the account of the Bank, in the event of their arrest or surrender before the learned court below within a period of six weeks from the date of receipt / production of a copy of this order, the above named petitioners are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran at Motihari in Chakiya P.S. Case No. 15/2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure. The money so deposited by the petitioners in the account of the Bank shall be subject to the result of the departmental proceedings.

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(Prabhat Kumar Jha, J)