

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25483 of 2016

Arising Out of PS.Case No. -373 Year- 2015 Thana -NANHPUR District- SITAMARHI

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Gajendra Kumar Jha Son of Late Bisheshwar Jha, R/o village- Hariharpur, P.S.- Kamtaul, District- Darbhanga, at present posted as Assistant, North Bihar Gramin Bank, Kharka, P.S.- Nanpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Branch Manager, North Bihar Gramin Bank, Kharkha Branch, P.S.- Nanpur, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party No.1: Mrs. Pushpa Sinha, APP

For the Opposite Party No.2: Mr.Prabhakar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 29-06-2016

Heard the parties.

The petitioner apprehends his arrest in a criminal prosecution registered under Sections 406, 409, 420 and 34 of the Indian Penal Code.

The impugned criminal prosecution has been lodged by the Branch Manager of Kharka Branch of Uttar Bihar Gramin Bank. The petitioner and three other persons are specifically named in the first Information Report vide Annexure-1 as accused with allegation of defalcation of Rs.78,25,874/-.

The learned counsel appearing on behalf of the petitioner submits that the petitioner joined the Branch of the Bank on 25.02.2013 and immediately after two months, he was transferred from there on 25.05.2013. According to him, the allegation of defalcation is with respect to the period from 2012 to 2014; therefore the petitioner cannot be held responsible for the alleged defalcation. He further submits that co-accused Mrigendra

Narayan Jha and co-accused Syed Nasir Abbas have been granted anticipatory bail by a co-ordinate Bench of this Court by orders dated 16.05.2016 separately passed in Cr Misc.No 16687 of 2016 and Cr.Misc.No. 11535 of 2016 respectively and both the aforesaid orders have been brought on record as Annexure-2 by way of a supplementary affidavit filed on behalf of the petitioner today itself.

The learned Addl.P.P. appearing on behalf of the State of Bihar and the learned counsel appearing on behalf of the opposite party no.2, though have opposed the prayer for anticipatory bail, but have not been able to dispute the aforesaid submissions. However, it is pointed out by the learned counsel appearing on behalf of the opposite party no.2, that while granting anticipatory bail co-accused Syed Nasir Abbas has been directed to deposit Rs. one lac in the court below, which has been made subject to final outcome of the criminal trial.

In order to maintain parity, the prayer for anticipatory bail made on behalf of the petitioner is allowed, subject to deposit of Rs. one lac by the petitioner in the court below within a period of two months, which shall be subject to final outcome of the trial of the petitioner.

In the event of his arrest or surrender in the court below within a period of two months from today, let the above named petitioner be released on bail on furnishing bail bond of Rs.25,000/-(Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Pupari at Sitamarhi in connection with Nanpur P.S.Case No. 373 of 2015, subject to the conditions laid down under Section 438 (2) of the Cr.P.C. and subject to the

further conditions that :

(A) one of the bailors of petitioner must be a government servant or close family member of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,

(B) if the petitioner is found involved in same and similar nature of cases in future, then in that case, the informant/prosecution shall be at liberty to file a petition for cancellation of bail bond of the petitioner, and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned, and

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every dates, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

It is further clarified that before being released on bail, the petitioner must deposit Rs. one lac in the court below, as indicated above.

(Birendra Prasad Verma, J)

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