IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19850 of 2016

Arising Out of PS.Case No. -232 Year- 2015 Thana -HARNAUT District- NALANDA (BIHARSHARIFF)

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Manish Kumar, son of Mahesh Prasad Singh, Resident of Village- Bajitpur, P.S.- Harnaut, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar
2. Branch Manager, Madhya Bihar Gramin Bank, Gonowa, Nalanda.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Yogesh Chandra Verma, Sr. Advocate.
Mr. Ansul, Advocate.
For the Opposite Party : Mr. Choubey Jawahar, (App)
For the Bank : Mr. Suresh Prasad Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

16 25-05-2017 Heard Mr. Yogesh Chandra Verma learned senior counsel for the petitioner, Mr. Suresh Prasad Singh, learned counsel appearing on behalf of the bank and learned APP for the State.

The petitioner apprehends his arrest in Harnaut (Gokhulpur O.P.) P.S. Case No. 232 of 2015 registered for the offences punishable under Sections 420, 406, 467, 468, 471, 120B and 34 of the Indian Penal Code.

The informant alleged that scheme of financial inclusion programme by the Government of India was launched and one Sub Service Area Centre was opened for which the petitioner was appointed as Business Correspondent Agent, who was authorized to work for the Sub Service Area Centre. Allegation against the petitioner is that he being the Business Correspondent Agent did not transfer money in the account of 165 beneficiaries under the different schemes and, thereby misappropriated Rs. 7,15,800/-.

Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner submits that the petitioner was appointed as Business Correspondent Agent but, before his joining the accounts of beneficiaries were opened. The system was running on biometric system and the petitioner cannot operate the accounts of the beneficiaries. The petitioner cannot withdraw any amount from the beneficiary without having thumb impression of the beneficiary. It is further submitted that during course of investigation, many witnesses in parargraph - 42, 44, 45, 60, 71, 72 and 73 have stated that they received the amounts deposited in their accounts.

On the other hand, learned APP for the State as well as learned counsel for the bank submitted that the amount was deposited but, the petitioner, himself, withdrew the entire amount without transferring the same in the accounts of the beneficiaries. Even during course of investigation many of the beneficiaries supported the allegations made in the FIR.

Having considered the facts that the petitioner being Business Correspondent Agent misappropriated a sum of Rs. 7,15,800/- which was meant for beneficiaries of different schemes, I am not inclined to enlarge the petitioner above named on anticipatory bail. Accordingly, the same is rejected.

If the petitioner surrenders in the court below after depositing the entire amount, alleged to have been defalcated, within four weeks from the date of receipt/production of a copy of this order, the court below shall favourably consider the prayer for regular bail of the petitioner and dispose of the bail petition preferably on the same day.

(Prabhat Kumar Jha, J.)

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