

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13635 of 2017

Arising Out of PS.Case No. -179 Year- 2016 Thana -GAYA COMPLAINT CASE District- GAYA

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Debojyoti Maitra @ Debajyoti Maitra S/o Rabindra Nath Maitra, 976,
Hemanta Kumar Bose Sarani, P.S. Lake Town, Kolkata, West Bengal.

.... Petitioner

Versus

1. The State of Bihar
2. Parvesh Kumar Sharma, Sono of Ram Lakhan Sharma, Resident of
Village-Horma, P.O.Bindaul, P.S. Khizersarai, District Gaya

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Siddhartha Prasad, Advocate.

For the Opposite Parties : Dr. Ajeet Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

4 02-05-2017 Affidavit on behalf of the opposite party no.2 has been
filed. Let it be kept on the record.

Heard the learned counsel for the petitioner, the
learned A.P.P. for the State as also the learned counsel for the
complainant.

In this application for anticipatory bail the petitioner
apprehends his arrest in connection with Complaint Case No. 179
of 2016 for the offences punishable under sections 406, 420 and
120 B of the I.P.C.

The complainant alleged that the ESBI group opened
six branch offices at several places including Gaya and its Branch
Manager was Nipen Roy. The complainant was engaged as an



agent by one Arindam Bakshi for sale of the debentures/ schemes/ products. ESBI LIP launched to ESBI group. Some other persons were also engaged as agent and thereafter the complainant and others started to perform their work sincerely and there was never any complaint against them. Several local persons including the complainant purchased the debentures and invested huge amount, i.e. more than one crore in the debenture and the scheme ESBI LIP. The complainant after receiving the money used to deposit the same in the Branch office. All of a sudden the ESBI decided in the meeting dated 06.04.2015 to close the business with all operations with effect from 15.04.2015 and information regarding the aforesaid decision was communicated to the local office and then the Branch Office was closed by the then Branch Manager and the Branch is still closed till date. Later on the ESBI announced that the payment will be made as per disbursement schedule through the interim memo/ scheme issued from the head office and the payment will be started from 28.08.2015. The complainant along with other persons were entitled to get interest as well as maturity amount from the head office ESBI Industries Ltd. but they were surprised to see that there was hung another board with different name and style. The petitioner and another co-accused cheated the complainant and others and



misappropriated the amount. Thereafter notice was given to the accused persons but no reply was given.

Submission is of false implication, there is no specific allegation against the petitioner, the petitioner is not the Director of ESBI group, he is the share holder of the ESBI Industries Ltd, The ESBI Industries Ltd. and the ESBI Infrastructure Ltd. are two different companies and their registration has been done separately, the petitioner has got no role in taking any decision with regard to the closure of business at Gaya, it is false to say that the petitioner is the Director of the company, Photo copy of the details obtained from the website of Ministry and the Corporate Affairs is annexed as Annexure-3 from which it reveals that the petitioner is not the Director, the Directors are liable, the petitioner being simply a share holder of the ESBI Industries Ltd. cannot be held responsible, Subrata Paul has stated that he and his brother collected money from the investors through their authorized agents and he will refund the entire amount to the investor, no case under sections 406 and 420 of the I.P.C. is made out against the petitioner and as such the petitioner deserves sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the complainant opposes prayer for pre-arrest bail of



the petitioner. It is submitted that the petitioner has also misappropriated huge amount in collusion and conspiracy with other co-accused and they are directly involved in the alleged occurrence.

In the facts and circumstances as stated above, considering that the petitioner is not the Director of the company, he is simply a share holder of the ESBI Industries Ltd. and as such the petitioner, in case of his arrest or surrender within four weeks from the date of receipt/production of a copy of this order shall be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of. C.J.M. Gaya in connection with above mentioned case, subject to the conditions as laid down in section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

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