

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5490 of 2018

Arising Out of PS.Case No. -1602 Year- 2016 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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Om Prakash Yadav, son of Late Baldeo Yadav, Resident of Village-
Jhitkiya, P.S.- Kora, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dinesh Kumar Sahani, son of Late Ram Bachhan Sahani, Resident of
Village- Agrawa Motihari, P.S.- Motihari Town, District- East
Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate.
For the Opposite Party/s : Mr. Shailendra Kumar -1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 11-04-2018

Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in **Trial No. 631**
of 2016 arising out of Complaint Case No. 1602 of 2016
instituted for the offence under Sections 420, 418 and 406 of the
Indian Penal Code.

It is alleged in the written report that petitioner was
working as Branch Manager of Suraj Friet Carrier Private Limited
for the period from 2011 to 2016. It is alleged that in the month of
February 2016, Rajeev Ranjan, Area Manager, came for
inspection of godown of Suraj Friet Carrier and found defalcation
of cash worth Rs.3,62,547/-. Petitioner gave written undertaking



to make payment of aforesaid amount till 20.3.2016, but he did not deposit the amount. It is further alleged that on direction of Regional Manager, the local Manager namely Dinesh Mishra again inspected the godown and found that Rs.7,45,865/- has been defalcated till 23.03.2016. The petitioner admitted to make payment of aforesaid amount. Petitioner is said to have defalcated total amount of Rs.11,08,415/-.

Learned counsel for the petitioner has submitted that last inspection was done in the month of June, 2016 and complaint case has been filed on 18.08.2016 i.e. after delay of two months.

Counter affidavit has been filed on behalf of the opposite party No. 2 in which the documents has been enclosed as Annexure-A series. Those documents are also part of the complaint filed by the Complainant wherein this petitioner has admitted to return Rs.3,62,547/- on 20.03.2016 and an amount of Rs.7,45,868/- on 23.06.2016.

As such, there is specific allegation against the petitioner in the complaint petition of defalcation of huge amount of the company. The petitioner has admitted to return the aforesaid amount by giving undertaking dated 20.02.2016 which has been enclosed with counter affidavit filed on behalf of the opposite party No. 2.



Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner stands rejected.

It is made clear that in the event petitioner surrenders before the court below within a period of four weeks from the date of receipt of this order and makes offer to make payment of the amount as mentioned in the complaint petition in installments, the court below will consider the aforesaid offer of the petitioner and pass appropriate order in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

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