IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7618 of 2018

Arising Out of PS.Case No. -793 Year- 2015 Thana -SASARAM NAGAR District- SASARAM (ROHTAS)

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1. Narsingh Yadav, aged about 40 Years S/o Shoemurat Singh Yadav @ Shivmukh Yadav, R/o Village- Daliya, Ward No.34, P.O. + P.S.- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Man Singh Yadav S/o Late Vishwanath Singh, R/o Vill.- Savrudih, P.O.- Khanaithi, P.S.- Sonhan, Distt.- Kaimur (Bhabhua), Presently residing at Village- Daliya, Ward No. 34, P.O.+ P.S.- Sasaram, District- Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Chaudhary
For the Informant	:	Mr. J.P. Singh, Sr. Adv.
		Mr. Kunal Tiwary
		Mr. Anikit Singh
For the Opposite Party/s	:	Mr. Sri Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

9 02-05-2018

Heard learned counsel for the petitioner, informant as well as the State.

The petitioner apprehends his arrest in Sasaram Town P.S. Case No. 793/2015 instituted for the offences under Sections 420 and 406 of the Indian Penal Code read with Section 138 of the N.I. Act.

It is alleged in the written report that the informant and this petitioner are brother-in-law in relation. The petitioner gave assurance to the informant that he may get the loan sanctioned for him from Bank over the land bearing Khata No. 17, Plot No. 141, Area 15.5 decimals for constructing commercial building and the loan of Rs. 1,55,00,000/- was sanctioned on the aforesaid land in which the petitioner became guarantor. He assured that he will conduct the business in the name and style of “Khusbu Vatika”. The informant as well as this petitioner signed over the blank cheque book and letter pad. The informant later on came to know that this petitioner has withdrawn huge amount from the aforesaid loan account from period 28.02.2013 and onwards. The informant told the petitioner to return the amount. The petitioner assured to return money. He gave two cheques to the complainant/informant amounting to Rs. 60 lakhs and Rs. 99 lakhs, but they were dishonoured when presented in the bank on the ground of insufficient balance.

The complainant had filed a separate case being Complaint Case No. 855/2015 pertaining to bounce of cheque of Rs. 99 lakhs.

Learned counsel for the petitioner has submitted that in fact the land in question has been sold by the informant to the petitioner vide sale deed dated 07.08.2013. It is mentioned in the sale deed that any loan taken on the said land will be sole responsibility of the petitioner. The petitioner has already made repayment of Rs. 88 lakhs against the said loan.

Learned counsel for the informant has submitted that even in terms as mentioned in the sale deed, this petitioner has not re-paid the loan amount to the Bank. The huge amount is still outstanding. He has further submitted that the petitioner has siphoned off the amount from the loan account for his personal use. Details are mentioned in paragraphs 10, 11 and 12 of the counter affidavit and the manner in which the money has been siphoned off by the petitioner from the account of informant.

It is admitted fact that cheque was issued by this petitioner amounting to Rs. 60 lakhs in favour of the complainant/informant which got bounced on presentation. It is also admitted fact that petitioner became guarantor for the loan of Rs. 1,55,00,000/- sanctioned in favour of the informant and the amount of the loan have been siphoned off by the petitioner through different sources as mentioned in detail in paragraphs 10, 11, and 12 of the counter affidavit.

Therefore, considering the seriousness of allegation, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, his prayer for anticipatory bail is rejected. He may surrender and make prayer for regular bail.

(Sanjay Priya, J.)

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