IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45971 of 2018

Arising Out of PS. Case No.-339 Year-2016 Thana- CIVIL LINE District- Gaya

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Hemant Kumar Verma, S/o Umesh Chandra Verma, Sr. Manager, Bank of India, G.B. Road, Main Branch, Gaya, P.S.- Civil Lines, District- Gaya at Present Senior Manager Bank of India, A.N. Puri Branch- A.P. Colony, P.S.- Rampur, District- Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Economic Offence Unit Bihar, Patna.

... ... Opposite Party/s

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with

Criminal Miscellaneous No. 47177 of 2018

Arising Out of PS. Case No.-339 Year-2016 Thana- CIVIL LINE District- Gaya

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Arvind Kumar, S/o Bal Govind Rajak, R/o Panchwati Nagar, Bibiganj Bhatta, P.S.- Danapur Cantt, District- Patna.

... ... Petitioner/s

Versus

The State of Bihar Through Vigilance Investigation Bureau, Bihar, Patna.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Singh, Advocate
		Mr. Sanjay Kumar, Advocate
For the E.O.U.	:	Mr. V.N.P. Sinha, Senior Advocate
		Smt. Soni Shrivastava, Advocate
		Mr. Akhileshwar Pd. Sinha, Senior Advocate
For the Vigilance	:	Mr. Anjani Kumar, Senior Advocate
		Mr. Ajay Mishra, A.C to Vigilance
For the State	:	Mr. Satya Nand Shukla, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

9 04-12-2018 Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel for the Economic Offence Unit and learned counsel for the Vigilance.

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 419, 420, 467, 468, 469, 471, 120(B) of the Indian Penal Code and Sections 13(1) (d), 13(2) of the P.C. Act.

One *Shashi Kumar* lodged the present case with averment that he is proprietor of *Shiva Agro Enterprises*. On 12.10.2016, *Shiva Agro Enterprises* had opened a current account in the Bank of India, G.B. Road Branch, Gaya bearing account No.*447520110000742*. The two younger brothers of the informant namely, *Shailesh Kumar* and *Rajnish Kumar* had also opened two different current accounts referred in the F.I.R. on 07.09.2016 in the same Bank.

Allegation is that on 07.12.2016 the informant called for the details of the aforesaid accounts from the Bank but the Bank declined on the pretext of non-functional machine. However, in the meantime, huge amounts were transacted through the aforesaid account by some unknown person.

Learned counsel for the petitioners submits that aforesaid F.I.R. was lodged only after the notice of the Income Tax Department to the account holders, as to from where huge amounts have come to their account. During investigation, it came that the petitioners were Managers of the Bank and in collusion with different persons allowed/facilitated huge amount coming into the aforesaid accounts and going out without proper identification of the depositors or signature of the account holder. The petitioners acted against the Banking rules with malicious intention to help the interested person in getting their demonetized currency notes valid after the decision of the demonetization.

The material brought on the case diary would reveal that only single cash transaction had taken place, wherein Rs.10,00,000/- (Rupees Ten Lacs) was deposited in one of the account and the deposit was verified by petitioner, *Arvind Kumar*. Other different deposits which were either accepted or verified by each of the petitioners were either through RTGS or NEFT transfer. There is no dispute that in the case of RTGS transfer and NEFT transfer the money goes from one account to another and identity of both the account holders are there. No one can evade the responsibility of transfer through the aforesaid process, nor anyone has come to complain that from his account money was transferred to the referred account of the informant without his consent. Even there is clear scope for nabbing the tax evaders in the event of account transfer because date, amount and identity is always there. Therefore, it cannot be alleged for the purpose of consideration of this prayer that the petitioners were acting in collusion with anyone and they had violated the norms of circular dated 08.11.2016, 09.11.2016 and 10.11.2016, wherein certain directions were issued for accepting the cash deposit.

Learned senior counsels appearing on behalf of Economic Offence Unit and Vigilance vehemently opposed the prayer for anticipatory bail in both the criminal miscellaneous applications, on the ground that in economic offence there is always deep rooted conspiracy and it is difficult to easily asses the inherent motive of the wrong doers. If the RTGS slip is not signed by anyone, there is no scope for allowing RTGS transfer by the Bank Authorities, including the petitioners who were well conversant with the transfer.

Considering the fact that co-accused, Om Prakash Nand having identical allegation has already been allowed anticipatory bail by a co-ordinate Bench of this Court as well as considering the fact that there is no material suggesting involvement of the petitioners, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Gaya Civil Lines Police Station Case No.339 of 2016, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the petitioners shall fully co-operate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bonds of the petitioners.

(Birendra Kumar, J)

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