

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.60093 of 2018

In
Criminal Miscellaneous No.28482 of 2013

Arising Out of PS. Case No.- Year- Thana- District- Saran

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Md. Ayub Mian @ Abbu @ Md. Ayub S/o Mahub Hussain @ Hassan Mian @ Hussain Doctor, R/o Vill.- Gangajal Tola, Sonpur, P.S.- Sonpur, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ramjan Ali S/o Hasim Miyan, R/o Vill.- Brhampur Pool, P.S.- Bhagwan Bazar, District- Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umeshanand Pandit
For the Opposite Party/s : Mr. J.N. Thakur, Adv

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 28-11-2018 Heard learned counsels for the parties.

The present writ application has been filed for modification of the order dated 07.10.2013 passed in Cr. Misc. Case No 28482 of 2013 to the extent of releasing Rs.42,500/- in favour of the petitioner deposited by him in pursuance to the aforementioned order, whereby, petitioner was granted anticipatory bail in connection with Saran Complaint Case No. 4070 of 2007.

The prosecution case as per the complainant Ramjan Ali is that a loan of Rs.42,500/- was sanctioned in the name of his wife from Bihar State Minorities Financial Corporation Limited which was illegally withdrawn by the petitioner by



imposter signature from the wife of complainant. On the submission made by learned counsel for the petitioner that withdrawal was done through cheque with the signature of the account holder and statement being made in paragraph 3 of the application that the petitioner has no criminal antecedent and that the petitioner is ready to deposit the aforesaid amount before the learned Court below which would be subject to the result of the case, the petitioner was granted anticipatory bail subject to deposit of the aforesaid amount.

It is submitted by learned counsel for the petitioner that the prosecution case arising out of the Complaint Case No. 4070 of 2007 as against the petitioner has been quashed by a Bench of this Court vide judgment dated 06.09.2017 passed in Cr. Misc. No. 26049 of 2014, as contained in Annexure-2, hence, prayer is being made for release of the deposited amount in favour of the petitioner.

Keeping in view the nature of relief prayed for, this Court is not inclined to issue notice to the complainant-O.P. No. 2. Learned APP appearing for the State has no objection if in terms of the orders dated 07.10.2013 and 06.09.2017, referred to above, the learned Court below will release the aforesaid deposited amount in favour of the petitioner.



In the circumstances, in view of the clear stipulation in the order dated 07.10.2013 and the fact that the prosecution with regard to the petitioner has been quashed, the petitioner is given liberty to file an appropriate application before the learned Court below whereupon the learned Court below is expected to pass an appropriate order after giving notice to the complainant.

This application is accordingly disposed of.

(Dinesh Kumar Singh, J)

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