

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28737 of 2018

Arising Out of PS.Case No. -84 Year- 2017 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Keshav Kumar Pandey, S/o Prabhunath Pandey, R/o Village- Babhani,
P.S.- Kateya, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Rajkumar Harijan, S/o Late Nath Ram, R/o Village- Amawa, P.S.-
Kateya, District- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai

For the Opposite Party/s : Mr. Chandra Bhushan Prasad

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 25-07-2018

Heard.

The petitioner seeks regular bail in connection with Complaint Case No. 84 of 2017, Tr. No. 1371 of 2018 for the offences punishable under Sections 406, 420 and 467 of the Indian Penal Code.

The case of the Opposite Party No.2 is that after he retired from the paramilitary force and had received retiral benefits in the year 2015, he came to his village whereupon his neighbour i.e. the petitioner herein approached the Opposite Party No.2 and convinced him that if the money is invested with him, who is said to be working in Central Bank of India, the Opposite Party No.2 would get interest 8% annually and 2% monthly. Thereafter, the Opposite Party No.2 is said to have given a total sum of Rs. 19 lacs to the petitioner herein but after lapse of one year the Opposite Party No.2 did not receive any interest, whereupon he went to the Central Bank of India and found upon enquiry, that his money was not traceable. The Opposite Party No.2 had then gone to the house of the petitioner and asked him about his money



whereupon two cheques totalling to a sum of Rs. 3, 50,000/- were given to the Opposite Party No.2, but the same could not be encashed. It is thus alleged by the Opposite Party No.2 that the petitioner has cheated the Opposite Party No.2 and engaged in breach of trust.

The learned counsel for the petitioner has submitted that the petitioner is innocent and there is no proof of handing over a sum of Rs. 19 lacs by the Opposite Party No.2 to the petitioner herein. It is further submitted that the petitioner is languishing in custody since 27.1.2018.

Per contra, the learned counsel for the Opposite Party No.2, has submitted that the learned trial court has prima facie found the complaint of the Opposite Party No.2 to be true and after examination of the complainant and the witnesses on solemn affirmation, the learned trial court has taken cognizance against the petitioner and one other co-accused. The learned counsel for the Opposite Party No.2, in the counter affidavit filed in the present case, has annexed a deposit slip of the Central Bank of India dated 30.9.2015 whereby a sum of Rs. 5 lacs was deposited and in acceptance thereof, the petitioner has signed on the slip and has also issued a certificate to the effect that the said sum of Rs. 5 lacs would bear interest @ 8.5% and would be returned to the Opposite Party No.2 upon demand, however, the said deposit made by the petitioner, upon enquiry, is nowhere to be found in the Central Bank of India which leads to the conclusion that the petitioner has embezzled the said amount. In fact, no rejoinder affidavit has been filed by the petitioner to controvert the said allegation.

In view of the un-controverted fact as also a prima



facie case being made out against the petitioner herein I find that the present case is a clear case of embezzlement of hard earned money of a retired Army man and the petitioner has engaged in breaching of trust which is apparent from the complaint petition and the statement made by the complainant and the other witnesses before the learned court below on solemn affirmation.

Having regard to the facts and circumstances of the case, I am not inclined to grant regular bail to the petitioner herein, hence the present petition is dismissed.

(Mohit Kumar Shah, J)

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