IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49881 of 2017

Arising Out of PS.Case No. -141 Year- 2017 Thana -GAYA KOTWALI District- GAYA

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Sita Ram Pandey, S/o late Radhey Pandey, r/o Vill - Gafakala, P.S. - Bodh Gaya, Distt. - Gaya at present Lakhibag, PS - Muffasil, Distt. - Gaya.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate.
For the informant : Mr. Parijat Saurav, Advocate.
For the Opposite Party/s : Mr. Arun Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 05-07-2018 Heard learned counsel for the petitioner, learned counsel for the informant and the State.

The petitioner apprehends his arrest in **Kotwali P.S. Case No. 141 of 2017** instituted for the offence under Sections 467, 468, 420 and 406 of the Indian Penal Code.

It is alleged in the written report that informant is Proprietor of partnership firm of M/s. Pramod Confectionary & Food Products, Gaya. The petitioner was working in the firm as sales and collection Manager. He used to collect money of the firm from the retailer and whole sale customers. It is further alleged that partner of informant Sharvan Kumar who used to take the account from time to time from petitioner and others, went to Delhi for his treatment on 19.03.2017 and remained there for a week. During this period, petitioner collected Rs.20,50,000/- from four whole sellers. The petitioner gave forged receipt for taking the money. The customers often used to pay the money through cheques or transfer to the accounts, but by taking advantage of illness, petitioner collected more than Rs.30,00,000/- and fled away. The petitioner on 22.03.2017 asked staff Kundan Kumar who is accountant, to enter the payment so collected by him in different heads. He assured that same would be deposited in the firm account and thereafter, he would send receipt to different parties. But the amount has not been deposited. A message was also sent on Mobile of petitioner by one of the partner of informant on 26.03.2017 but no response was made. The ledger was tallied, then it was found that petitioner has misappropriated the amount so collected by him and same has not been deposited in the firm.

Learned counsel for the petitioner has submitted that petitioner has not taken any money as alleged in the First Information Report.

Learned counsel for the informant has appeared and filed counter affidavit wherein he has stated in paragraphs-9, 10, 11 and 12 that petitioner after issuing forged cash receipt has managed to collect money from different customers on 20.3.2017 and 21.03.2017. Those receipts have been annexed as Annexure-B to the counter affidavit. It has further been submitted that when matter came to the notice of the informant and Proprietor of those firms namely, Sri *Bir Trading Enterprises* and *Maa Maheswari Enterprises* these firms have also lodged separate case against the petitioner for collecting money from them by using forged receipt. The Xerox copy of the case filed by those firms has been enclosed as Annexure-C to the counter affidavit.

In this manner, filing of the case by different firms from whom the petitioner has collected money supports the allegation made in the written report that petitioner has collected money from different firms and misappropriated the amount in question.

Case diary has been received.

Learned A.P.P. after looking into the case diary has submitted that police after investigation has found the case true after recording statement of different witnesses.

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

Prayer for anticipatory bail of the petitioner stands rejected.

Petitioner may surrender before the court below and make prayer for regular bail.

(Sanjay Priya, J)

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