IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20222 of 2018

Arising Out of PS.Case No. -117 Year- 2017 Thana -BUDDHACOLONY District- PATNA

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1. Tutu Kumar Son of Niranjan Kumar Yadav Resident of village-Mainpura (Rajapur), Police Station Patliputra, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Branch Manager, State Bank of India, Branch Boring Canal Road, Patna.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sunil Prasad
For the Opposite Party/s : Mr. Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 17-05-2018 Heard the learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Budha Colony PS case no. 117 of 2017 instituted for the offences punishable under Sections 379 and other sections of Indian Penal Code.

The case of the prosecution, according to the informant namely Parijat Choudhary, the then Branch Manager, State Bank, Boring Canal road branch, is that the petitioner herein had managed to tamper with the cheque issued by one Dayashankar Verma, resident of Kolkatta, which was issued for the purposes of opening De Mat account and the said cheque was a cancelled cheque and could not have been credited to any one's account. This resulted in a sum of Rs. 2 lacs being illegally and fraudulently credited to the account of the petitioner herein and the petitioner herein with ill motive, withdrew the said amount of Rs. 2 lacs on the same day. It is the further case of the prosecution that when the petitioner was contacted and told to come to the Branch, he neither came to the Branch nor would give any clarification, hence it is the case of the prosecution that the petitioner had indulged in illegal withdrawal of money from the Bank.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has committed no offence, inasmuch as he has merely withdrawn money from his account. It is further submitted that the petitioner is having a clean antecedent and is languishing in custody since 08.11.2017.

I have heard the learned counsel for the parties and perused the materials on record. At this juncture itself, it would be relevant to state that this Court had put a question to the learned counsel appearing for the petitioner as to whether the said sum of Rs. 2 lacs belonged to the petitioner or not. A further query was put to the learned counsel for the petitioner to explain the source of deposit of Rs. 2 lacs in the account of the petitioner. In reply, the learned counsel has failed to satisfy this Court even remotely, hence admittedly, *prima facie* it appears that the said sum of Rs. 2

lacs was illegally credited in the account of the petitioner, which the petitioner had withdrawn. In such view of the matter, this Court had offered the learned counsel for the petitioner to deposit the aforesaid sum of Rs. 2 lacs for the purposes of being granted bail, however the learned counsel for the petitioner has flatly refused the said offer. Therefore, this Court has no other option but to dismiss the prayer of the petitioner for grant of regular bail, in view of the fact that the petitioner is prima facie guilty of committing a fraud and illegally withdrawing a sum of Rs. 2 lacs from the Bank which does not belong to the petitioner herein and moreover, the police, upon investigation, has found the case to be true and has submitted a chargesheet dated 05.01.2018 against the petitioner under Sections 420, 379, 467, 468, 471/34 of Indian Penal Code.

For the reasons mentioned hereinabove, I do not find the present case to be a fit case, in which the petitioner should be granted bail.

Hence, the petition is dismissed.

(Mohit Kumar Shah, J)

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