IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28769 of 2018

Arising Out of P.S.Case No. -346 Year- 2008 Thana -GANDHIMAIDAN District- PATNA

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Prafulla Kumar Sikdar, Son of Late Sudhir Chandra Sikdar, resident of Mohalla- Akash Ganga, Housing Society, 208/1, B.T. Road, 24 Pargana, P.S.- Baranagar, District- North 24, Pargana, West Bengal, Kalkata.

.... Petitioner/s

Versus

1. The State of Bihar
2. M/S H.D.F.C. Bank Ltd., Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar
For the Opposite Party/s : Mr. Parmeshwar Mehta
For the Informant (HDFC Bank) : Mr. Girijesh Kumar

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL ORDER

6 28-06-2018 Heard learned counsel for the petitioner, learned counsel for the Informant and the State.

The petitioner is in custody in connection with Gandhi Maidan P.S.Case No.346 of 2008 registered for an offence under Sections 409, 420 and 120(B) of the IPC.

The allegation as per FIR is that the HDFC bank has a current account of Punjab National Bank, Exhibition Road Branch, Patna and the cash of HDFC bank is used to be deposited with the said Exhibition Road, branch of Punjab National Bank through an authorized agency. It is stated that on 19.09.2008 an amount of Rs.4.90 crore was sent for depositing through authorized representative of the HDFC bank. Similarly an amount of Rs.4.90 crore was handed over to the authorized agent for being depositing in the said current account on 21.10.2008. It is alleged that the amount of Rs.7.90 crore has been fraudulently misappropriated by the officials of Punjab National Bank including the petitioner who was then posted as Chief Manager of Punjab National Bank during the relevant period.

Learned counsel for the petitioner submits that the petitioner was the Chief Manager of PNB from 16.08.2005 to 14.10.2008 and the petitioner had performed his duty sincerely and honestly. It has further been submitted that no fraudulent activity was detected during his service period. The petitioner was transferred from the said branch and he made charge over his Office on 14.10.2008. The petitioner was granted anticipatory bail on 22.04.2009 in Cr.Misc.No.1282 of 2009 which was operative for a period of six weeks from the date of release. The petitioner was directed to approach the Investigating Officer and to explain his stand so far as the allegations are concerned and to cooperate in the investigation during the period of his bail. The petitioner was given liberty to approach the court below for the bail which was to be considered and disposed of on its own merit in accordance with law. The police submitted chargesheet on 15.01.2018 but before submission of chargesheet the petitioner has been arrested by police. After anticipatory bail, the petitioner had appeared before police and his statement was also recorded. The other co-accused R.K.Narayan @ Rajendra Kishore Narayan who was Chest Manager during the relevant period was allowed provisional bail and this fact was confirmed by the concerned Magistrate in the light of the direction given on 10.09.2014 in Cr.Misc.No.21346 of 2009. The other co-accused Md. Shaique Hussain @ Shaique Hussain who was having one of the key of currency chest has also been allowed bail in Cr.Misc.No.7577 of 2014. The petitioner had no role at all in crediting the said amount. He is in custody since 24.11.2017 having clean antecedent and so he deserves to be enlarged on bail.

The learned counsel for the informant as well as APP opposed the bail prayer. It has been submitted that after grant of anticipatory bail, the petitioner absconded and after nine years of granting of anticipatory bail, he has been apprehended by the police and so the petitioner does not deserve bail.

On perusal of document on record, it appears that the petitioner had made over charge of his Office on 14.10.2008. The allegation of not crediting an amount of Rs.4.70 crore relates to dated 21.10.2008. It is alleged that out of Rs.4.70 crore, only an amount of Rs.1.70 crore was credited and balance remained uncredited. In course of periodical inspection of currency chest which commenced on 16.08.2008, the Senior Internal Auditor found short fall of Rs.4.90 crore. The said money was received by Sri R.K.Narayan (Head Cashier) under his signature. The said head cashier/Chest Manager is enjoying privilege of bail. It appears that the petitioner was transferred on 14.10.2008 after which the second occurrence with respect to Rs.4.90 crore has taken place. The petitioner has retired from the service having clean antecedent except the present case. It further appears that the petitioner was allowed anticipatory bail by this Court but before submission of police report, he has been arrested.

In the above facts and circumstances, prayer for bail is allowed. Let the above named petitioner be released on bail on furnishing bail bond of Rs.50,000/- (fifty thousand) with two sureties of the like amount each to the satisfaction of ACJM-VI, Patna in connection with Gandhi Maidan P.S.Case No.346 of 2008 with following conditions:-

(i) One of the bailors of the petitioner shall be a local person having sufficient immovable property within the jurisdiction of the concerned Court.

(ii) The petitioner will not induce any witness or tamper with the evidence.

(iii) The petitioner shall cooperate in the disposal of trial and make themselves available as and when required by the court and on the event of failure on his part to appear before the court below on two consecutive dates without showing any genuine reasons, the prosecution is free to move for cancellation of his bail.

(Sanjay Kumar, J)

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