

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39619 of 2018

Arising Out of PS.Case No. -79 Year- 2009 Thana -VIGILANCE District- PATNA

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1. Bishwanath Chaudhary Son of Late Barhu Chaudhary, resident of Mohalla- Kaath Ka Pool, P.S.- Mehandiganj, P.O.- Patna City & District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Senior Deputy Superintendent of Police, Vigilance Investigation Bureau, 6, Circular Road, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar, Advocate

For the Opposite Party/s : Mr. Ramakant Sharma (L.O.,Inc., Vigilance)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 09-08-2018 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 409/406/467/ 468/ 471/ 477A / 420/120B of the Indian Penal Code and Sections 7/8/13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.

The entire FIR reveals an allegation against the former chairman of Samsera Pacs, Kishanganj, and other office bearers to have disbursed loan of Rs.6,99,000/- to 43 fictitious persons for the financial year 2001-2002. Allegation against the petitioner is that he was auditor and he submitted audit report vide Memo No.45 dated 06.11.2002. The petitioner should have



pointed out the aforesaid forgery.

Submission of the learned counsel for the petitioner is that this is not the business of the auditor to identify the person to whom loan was disbursed by the competent authorities. Only business is to see from the records whether the loans were disbursed according to law and following the procedures and guidelines if the loans were distributed to fictitious person, the distributor of the same are responsible. Moreover, the aforesaid fact revealed only when recovery of the loan was not noticed in the year 2009 and thereafter suspicion arose that loan was disbursed to fictitious person.

Learned counsel for the vigilance opposed the prayer for bail. However, could not produce any material to substantiate that it is business of the auditor to see even going beyond the record that the loan was not disbursed to any real person.

Petitioner is in custody since 26.05.2018. Investigation of the case against the petitioner is already closed.

Considering the facts aforesaid, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Vigilance P.S. Case No.079



of 2009, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

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