

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16111 of 2019

Arising Out of PS. Case No.-119 Year-2017 Thana- Routa District- Purnia

Md. Ashraf Nawaz @ Ashraf Nawaz, aged about 35 years, Male, Son of Late Abdul Rajjak @ Late Abdul Razzaque @ Abdur Razzaque, R/o Village-Nimol, P.S- Azam Nagar, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Najeeb Ahmad

For the Opposite Party/s : Mr.Madhura Nand Jha

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2019 Heard learned counsel for the petitioner, learned counsel representing the informant and learned counsel for the State.

Petitioner is seeking anticipatory bail in connection with Routa P.S. Case No. 119 of 2017 registered for the offences punishable under Section 406, 420, 504, 506 and 120B of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the First Information Report, when the informant approached on the given mobile number published in the newspaper, he for the purpose of grant of loan he was asked to deposit certain amount in different Bank accounts which he did as per the direction. It is stated that in the account of this petitioner, the informant had



deposited a sum of Rs.5,63,200/-. It is further alleged that in all the four accounts given to him he had deposited a total amount of Rs.6,71,650/- but thereafter loan was not granted to the informant. It is alleged that this petitioner is running a Company showing that it provides finance but infact in the name of finance the petitioner is running a racket of cheating and by committing fraud he is collecting money from people.

Learned counsel submits that as per his account a total sum of Rs.3,60,100/- has been deposited in his account, whereas, Rs.54,000/- has been deposited in the account of the other accused. Learned counsel has produced before this Court a copy of the order passed by a learned Co-ordinate Bench of this Court in the case of Farooque the co-accused in Cr.Misc. No.8735 of 2019. Submission is that for the purpose of grant of anticipatory bail, the co-accused has already deposited 50% of the total amount Rs.4,14,100/- and he has undertaken to deposit balance 50% in six monthly installments within six months. On this ground Farooque has been granted anticipatory bail, thus for the purpose of grant of anticipatory bail, the petitioner is willing to deposit the rest of the amount i.e. Rs.1,75,550/- as per the receipt in the learned Court below subject to the result of the case.



Opposing the prayer for anticipatory bail, learned counsel for the informant submits that the prayer for anticipatory bail of Farooque was considered only because no money had gone in his account. It is submitted that as regards other co-accused, their prayer for anticipatory bail has been rejected by a learned Co-ordinate Bench of this Court in Cr.Misc. No.33546 of 2018. It is submitted that, at this stage, when the process under Section 82 Cr.P.C. has already been issued, the petitioner has approached this Court for grant of anticipatory bail.

Having heard learned counsel for the parties and upon consideration of the materials available on the record, this Court finds that the name of this petitioner has come as main accused in the case. It is his account in which the amounts have gone. He has moved this Court at this stage when process under Section 82 Cr.P.C. has already been issued. Considering this aspect of the matter, this Court is not willing to grant anticipatory bail to the petitioner but then considering the prayer of the petitioner that he would deposit the rest of the amount for the purpose of grant of bail, this Court directs that in case the petitioner surrenders and prays for regular bail in the learned Court below within a period of three weeks from today and offers to deposit



the remaining amount as indicated above as a condition for grant of regular bail to the petitioner, the learned Court below shall consider his prayer for regular bail taking into consideration, inter-alia, the submission of the petitioner and his readiness to deposit the balance amount in the learned Court below subject to result of the criminal proceeding. The learned Court below shall take an independent view on the regular bail without being prejudice by the order of this Court refusing the privilege of anticipatory bail to the petitioner and the prayer for regular bail shall not be rejected only because this Court has not extended the benefit of anticipatory bail.

This application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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