

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21176 of 2019

Arising Out of PS. Case No.-440 Year-2018 Thana- MANER District- Patna

Ashok Ram, S/o Late Bijuli Ram, Resident of Village - Bhawani Tola, P.S.-
Maner, Distt. - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
 2. Priti Rani Branch Manager, State Bank of India, Maner, Patna Pin-801108
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Tiwary
For the Opposite Party/s : Mr.Raj Ballabh Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 31-07-2019 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

The prosecution case as per the written report of Priti Rani, the then Branch Manager, State Bank of India, Maner Branch submitted to the Station House Officer, Maner Police Station is to the effect that the petitioner, Ashok Ram was granted gold loan on 19.11.2014 for the agriculture purposes to the tune of Rs.1,85,000/- but he never repaid the loan amount and became non-performing assets and consequently, the purity of the gold deposited by the petitioner was verified by Ginni Gold House, a Gold Jewellery Shop at Patna and on



verification, the deposited gold was found only 25%-30% pure, hence, it is alleged that the petitioner by playing fraud got the loan sanctioned.

It is submitted by learned counsel for the petitioner that the loan was given in lieu of deposit of 120 gms gold by the petitioner and only after verification of its purity, the loan was sanctioned to the petitioner but deliberately, the bank got a prompted purity test report obtained to make a ground to lodge criminal case. Since the loan was sanctioned after due verification of purity of the gold in question hence, no offence under Section 420 IPC is made out. It is the petitioner who deposited gold hence, there is no entrustment to the petitioner. In the circumstances, no case under Section 406 IPC is made out.

Learned counsel for the informant submits that the petitioner, in fact, deposited the fake and impure gold and received the loan in lieu thereof. Moreover, he never repaid the loan amount, hence, he committed forgery upon the bank. The informant, who is Branch Manger of the bank, is present in Court and accepts this fact that such kind of loan is being sanctioned only after purity of the gold is tested by the authorized dealer but no such verification report with regard to



purity of the deposited gold in question is available in the bank. Moreover, other persons have also obtained loan in similar fashion. It is further submitted that public money is being siphoned off by misusing the process of the bank by such loanees. However, departmental proceeding has been initiated against the bank officials.

Considering the rival submissions of the parties, since this is not in dispute that the procedure for granting gold loan is to sanction loan only after obtaining the purity report of the gold so deposited but the same is not available in the bank, hence, the presumption is against the bank officials, who mismanaged the whole procedure but the bank officials, who sanctioned the said loan or in whose custody, the gold was being kept, have not been made accused in the present FIR, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each, and **cash surety of Rs.1,00,000/- deposited before the learned Court below**



which will be subject to the result of the case, to the satisfaction of learned Judicial Magistrate, Ist Class, Danapur in connection with Maner P.S. Case No. 440 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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