IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33106 of 2019

Arising Out of PS. Case No.-266 Year-2017 Thana- MAHUA District- Vaishali

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RAJESH SINGH @ RAJESH RAY @ RAJESH KUMAR RAI S/o Sh. Kuldeep Rai R/o. Village- Hilalpur, P.S.- Industerial Area Hajipur, Vaishali, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Branch Manager of Central Bank of India, Branch Harpur Belwa, P.O- Harpur Belwa, P.S.- Mahua.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate.
Mr. Prakash Chandra, Adv.
Mr.Anish Kumar

For the Opposite Party/s : Mr.Anil Kumar
Mr. Shivnandan Pd. Singh, Advocate.
Mr. Ajay Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

5 21-10-2019 The petitioner apprehends his arrest in connection with Mahua P. S. Case No. 266 of 2017 registered under Sections 120B, 364, 364A, 420, 467 and 468/34 of the Indian Penal Code.

Allegation against the petitioner is that informant's husband was having Rs. 1895056/- in his bank account No. 3452621749 in Central Bank of India, Harpur Branch, Belwa, P.S.-Mahua. It has further been alleged that amount from his account got transferred from time to time in account No. 03548105691 belonging to one Rajesh Singh. It has further been alleged that on 23.08.2017, Rajesh Singh i.e., petitioner called on the mobile phone of informant's brother and informed that Subodh Kumar i.e., co-accused, was sitting at Mahua Police Station along with the Police Inspector Ramraji Ram and instructed him to talk to them at Police Station if he wanted his brother-in-law to be released. The informant further alleged that Subodh Kumar and Rajesh Singh, with the help of other bank officers, have abducted her husband and money, lying in his account, has been withdrawn.

Learned senior counsel appearing on behalf of the petitioner submits that petitioner has unnecessarily been dragged in this case inasmuch as account number, which has been mentioned in the FIR, does not belong to the petitioner and in fact the same belongs to one Rajesh Singh, son of Amar Singh. He further submits that in fact the name of the petitioner is Rajesh Kumar Rai, son of Shri Kuldip Rai and not Rajesh Singh son of Amar Singh, which the petitioner has explained in paragraph nos. 8 and 9 to this application.

He further submits that the bank account, in which the money was transferred from the account belonging to the husband of the informant, was opened on the basis of fake identity card and photograph of the petitioner is not available in that account. As such the petitioner cannot be connected with the said account at all and the only material which has been alleged against the petitioner is that the amount of a sum of Rs. 13 lacs was transferred from time to time in the bank account of Rajesh Singh whereas petitioner is not Rajesh Singh and he is having another account in the name of Rajesh Kumar Rai.

On the other hand, Mr. Sri Nandan Prasad Singh, learned counsel appearing on behalf of the informant vehemently opposes the prayer for anticipatory bail and submits that amount in question was transferred in the bank account of Rajesh Singh, son of Amar Singh, on the basis of withdrawal form and in connivance of the petitioner as well as bank officials embezzlement of the amount of the informant's husband has been done and his kidnapping by the petitioner and others cannot be ruled out. The victim was a 4th Grade Employee and was getting retirement benefit and a sum of Rs. 18,95,056/- was there in his bank account and all the accused persons conspired with each other and abducted the victim to grab his entire amount.

Mr. Ajay Kumar Sinha, learned counsel appearing on behalf of the Central Bank of India, is also present and submits that FIR lodged is in two parts and the main thrust of the allegation is of kidnapping the husband of the informant and withdrawal of money by the accused persons have only been mentioned in order to establish connection of the accused persons in the present offence for which bank is not responsible.

Having regard to the submissions made by the parties and taking into consideration the fact that only accusation levelled in the FIR against the petitioner is that a sum of Rs. 13 lacs and odd has been transferred in the account standing in the name of Rajesh Singh son of Amar Singh whereas there is no material to connect the petitioner with the present offence inasmuch as the amount was transferred in the account number, which is standing in the name of Rajesh Kumar Singh son of Amar Singh and admittedly, the same has not been transferred in the account of Rajesh Kumar Rai, son of Kuldip Rai, i.e., the petitioner, having a different account number. It also appears that photograph of the petitioner attached in the said fake account is not visible and the identity card submitted for opening of that account is also found to be fake as such I am inclined to grant anticipatory bail to the petitioner.

Let the petitioner, above-named, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned CJM, Vaishali at Hajipur in connection with Mahua P.S.Case No. 266 of 2017; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujit/-

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