IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 30466 of 2019

Arising Out of PS. Case No.-477 Year-2017 Thana- HAJIPUR District- Vaishali

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Mukesh Kumar @ Mukesh Kumar Singh, aged about 35 years, Gender – Male, Son of Devendra Prasad Singh, Resident of Village - Nai Panapur, P.S.- Danapur, District - Patna.

... ... Petitioner/s

Versus

The State of Bihar Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Bhaskar Shankar, Advocate
For the Opposite Party/s : Mr.Vinod Shanker Modi

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 10-07-2019 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Hajipur Town P.S. Case No. 477 of 2017 registered under Sections 467, 468, 471, 408, 420, 120(B) of the Indian Penal Code.

The prosecution case in brief is that the informant cum accused namely Mukesh Kumar @ Mukesh Kumar Singh lodged a typed written report before police station in-charge Hajipur Town to this effect that I am working as a team leader in C.M.S. Info System Ltd., Vaishali, Hahipur. It has been further stated that duty of that company is to withdraw money from the Bank and load the same money in the ATM machine. Further case of the prosecution is that on 02.07.2017, the informant cum accused was informed by the senior officer that 18 lakhs rupees is missing. It is further alleged that during the inquiry, it came into light that on17.02.2017, total Rs. 18,00,000/- laksh rupees has been withdrawn from I.C.I.C.I Bank, Branch- Hajipur and on that day, Deepak Kumar and Rajesh Kumar were on duty and when they inquired they disclosed lthat on 17.02.2017, they have not withdrawn any money from the said Bank and that very day cash was not loaded in any ATM machine and from perusal of cash balance report of the company, it appears that on 17.02.2017 neither money was withdrawn nor same was loaded in any ATM machine. It has been further stated by the informant cum accused, namely, Mukesh Kumar @ Mukesh Kumar Singh that our company gets the cash loaded in I.C.I.C.I. ATM machines from the A.G.S. Technology. It has ben further stated that in spite of great efforts the said amount (18 laksh rupees) could not be taken into account. It has been further stated that when informant cum accused demanded orally C.C.T.V. footage from the I.C.I.C.I. Bank, on that, said Bank replied that after two months footage of the C.C.T.V. are not available. It is also stated that during the checking of the ATM machines which are related with the route of Deepak Kumar and Rajesh Kumar, it was found that total Rs. 42,500/- rupees have been misappropriated by the aforesaid persons. Accordingly, the informant cum accused prayed for action against aforesaid both persons. It is pertinent to mention here on the basis of typed written report case was lodged against Deepak Kumar and Rajesh Kumar. But during the investigation, it was found that accused/petitioner, namely, Mukesh Kumar @ Mukesh Kumar Singh has committed the alleged offence.

On the other side, the learned counsel for the petitioner has submitted that above named petitioner is not named in the F.I.R. Real fact is that during the investigation without any evidence, police falsely implicated to the petitioner in this case and exonerated the F.I.R. named accused person although there are ample evidence against F.I.R. named accused person namely Deepak Kumar and Rajesh Kumar. It has been further submitted that F.I.R. named accused persons have withdrawn Rs. 18 lakhs rupees from I.C.I.C.I. Bank to load the same in the ATM and they knowingly and deliberately they misappropriated the said amount and they have not loaded in ATM machine. It has been further submitted that the above named petitioner joined in Hajipur Branch six months prior to the alleged date of occurrence and at that time he is taking training under Sanjay Singh in-charge of t he Hajipur Branch

C.M.S. Info System Ltd., Vaishali, Hajipur and one of the named accused Deepak Kumar is full brother of the Sanjay Singh and after the training, the petitioner was made senior to the said Sanjay Singh by the department and due to this said reason Sanjay Singh in order to save his brother in collusion of the police falsely implicated to the petitioner. Petitioner is innocent and has committed no offence and prosecution case is maliciously false and concocted that the petitioner is in judicial custody since 14.03.2019.

Per contra, learned A.P.P. for the State has opposed the prayer for bail and has submitted that from perusal of the record, it is evident that aforesaid accused/petitioner has misappropriated the huge amount by committing forgery and cheating and the allegations as leveled against the accused/petitioner is serious in nature. So, accused does not deserve for bail.

Considering the entire facts and circumstances of the case and nature of the materials against the petitioner, let the petitioner, above named, be released on bail after framing of the charge against the petitioner on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Vaishali at

Hajipur in connection with Hajipur Town P.S. Case No. 477 of 2017, subject to the following conditions :

(1) On of the bailors would be close relative of the petitioner having sufficient immovable properties, who will file an affidavit stating his relationship with the petitioner.

(2) The petitioner will appear before the learned Court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(3) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned Court below for cancellation of his bail bonds.

(Anjani Kumar Sharan, J)

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