IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.64181 of 2018

Arising Out of PS. Case No.-116 Year-2018 Thana- ATHMALGOLA District- Patna

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Sonam Kumar Son of Sudhakar Kumar, resident of Village- Giridhar Chak, P.S. Athmalgola, District- Patna.

... ... Petitioner/s

Versus

The State Of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Ashok Kumar Kashyap
For the Opposite Party/s : Mr. Kalyan Shankar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 22-01-2019 Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 419,420,406 and 120B/34 of the IPC.

The prosecution case as per the written report of Ram Ratna Rai dated 15.9.2018 submitted to the SHO, Athmalgola Police Station is to the effect that the informant got his ATM Card issued from the Punjab National Bank which was subsequently taken by the petitioner from the daughter of the informant. After some time, when the informant required to withdraw some money from the ATM, he enquired and found that Rs.86,300/- has been withdrawn through his ATM Card.

It is submitted by learned Senior Counsel for the petitioner that for the occurrence of 24.4.2018, the FIR was registered on

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4.6.2018. There is nothing on record to suggest that the petitioner actually withdrew the amount from the ATM nor there is specific evidence with regard to entrustment of ATM by the daughter of the informant to the petitioner. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that in one day the petitioner withdrew the amount alleged through different ATM Outlets and thereby has cheated the informant. It is further submitted that the petitioner undertakes to cooperate in the investigation.

Learned APP after going through the case diary, submits that the witnesses have suggested taking of ATM Card by the petitioner from the daughter of the informant but till date, no report has been collected from the bank concerning the withdrawal of the said money by the petitioner.

Considering the fact that since the investigating agency during investigation, has failed to collect any evidence with regard to withdrawal of money by the petitioner, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the petitioner above named be released on anticipatory bail in the event of arrest or

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surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Barh, Patna in connection with Athmalgola P.S. Case No. 116 of 2018 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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