IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56284 of 2018

Arising Out of PS. Case No.-120 Year-2013 Thana- BHAWANIPUR District- Purnia

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Upadhyay Jee @ Nitya Nand Upadhyay, S/o Late Baldeo Upadhyay, R/o Kunal Niketan, Upadhyay Tola, P.S.- Rajgir, District- Nalanda.

... ... Petitioner/s

Versus

The State Of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Upadhyay

For the Opposite Party/s : Mr. Shyam Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 10-04-2019 Heard learned Counsels for the petitioner, complainant and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 409, 420, 468 and 120(B) of the Indian Penal Code.

Initially, the prosecution case got initiated with filling of complaint case no. 1272 of 2012 before the learned Court of Chief Judicial Magistrate, Purnea, which came to be registered as a police case being, Bhavanipur P.S. Case No.120 of 2013, after its being transferred under Section 156(3) of the Cr. P.C.

The prosecution case as per the informant is that the informant was in need of money, hence, he made several applications for sanction of loan under Kishan Credit Card before the Branch Manager, Central Bank of India, Brahmgyani

Branch, Purnea, but the Branch Manager did not take any needful action. It is further alleged that one broker namely, Kailash Mandal conveyed the informant that after paying Rs.5,000/- to the Branch Manager and Cashier and Rs.500/- to him, the loan amount will be sanctioned. It is further alleged that out of sanctioned loan amount of Rs.50,000/-, the informant has received only Rs.25,000/- and the petitioner along with other co-accused persons took Rs.6,300/- fraudulently from the informant.

It is submitted by learned counsel for the petitioner that the petitioner was the Branch Manager of the bank in question and there is nothing on record to suggest that the money has been paid to the petitioner. However, it is submitted on behalf of the petitioner that the petitioner is ready to return Rs.6,500/- to the informant and on such condition, vide order dated 20.09.2018, notices were issued to opposite party no.2. The relevant portion of the said order reads as follows:-

> " In the present case, an allegation has been made that the petitioner has taken Rs.6,500/- for payment of loan amount of Rs.50,000/-.
>
> Learned counsel for the petitioner submits that the petitioner is ready to return the aforesaid amount of Rs.6,500/- to the Complainant."

A statement has been made in paragraph no. 3 of the petition that the petitioner is not having any criminal antecedent.

In pursuance to the order dated 20.09.2018, the petitioner has brought a draft of Rs.6,500/- in favour of the complainant and hands it over to the learned counsel for the complainant. It is expected from the learned counsel for the complainant to acknowledge the same on record.

Learned counsel for the complainant submits that in view of receiving the draft of the alleged amount, he is not opposing the prayer for grant of anticipatory bail of the petitioner.

Considering the present stand of the parties, 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 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned **C.J.M., Purnea** in connection with **Bhawanipur P.S. Case No.120 of 2013,** subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

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