

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57280 of 2019

Arising Out of PS. Case No.-279 Year-2017 Thana- RAXAUL District- East Champaran

Vivek Kumar @ Vivek Kumar Upadhyay Son of Ramashish Upadhyay
Resident of Village - Karmawa, P.S.- Dhaka, Distt - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate
For the Opposite Party/s : Mr. Surendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 11-09-2019 Heard learned counsel for the petitioner and learned
APP representing the State.

The petitioner apprehends his arrest in connection with Raxaul P.S. Case No. 279 of 2017, registered under Sections 406 and 420 of the Indian Penal Code.

The allegation against the petitioner, as per FIR, lodged by the informant Kishan Kumar, is that the petitioner was authorized to prepare smart card under the scheme of National Health Insurance and had taken Rs. 7,00,000/- from the informant in the month of January 2015 for the purpose of doing work of preparation of smart card and ultimately this effect an agreement was made on non-judicial stamp between them. It has further been alleged that after sometime the informant demanded money back and sum of Rs. 2,91,500/- was returned



by the petitioner to the informant and the balance amount is still due against him.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case, inasmuch as from perusal of the FIR, it would be evident that there was a money transaction by way of loan between the parties under an agreement. He further submits that no offence has been committed by the petitioner in the manner alleged inasmuch as according to the petitioner certain amount has been returned by the petitioner towards the total amount of Rs. 7,00,000/- which was taken as loan under the business agreement between the parties. He further submits that money suit bearing Money Suit No. 17 of 2018 has been filed by the informant against the petitioner before the Sub-Judge, 1st, Motihari, East Champaran.

After having heard learned counsel for the parties and taking into consideration the fact there appears to be money transaction between the parties and Money Suit is pending between them before learned court below, I am inclined to grant anticipatory bail to the petitioner.

This application is, accordingly, allowed.

Let the petitioner, abovenamed, in the event of arrest or surrender before the court below within a period of four



weeks from today, 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 Sub-Divisional Judicial Magistrate, Raxaul, Motihari, East Champaran in connection with Raxaul P.S. Case No. 279 of 2017; subject to condition as laid down hereinabove and under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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