

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73254 of 2019

Arising Out of PS. Case No.-30 Year-2019 Thana- PURNEA SADAR District- Purnia

OM PRAKASH SAH Son of Late Ram Prasad Sah Resident of Madhubani
Tara Nagar, P.S.-K.Hat, District-Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Uday Singh

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

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 11-12-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner who has been in custody since 13.09.2019 in connection with Sadar P.S. Case No. 30/2019 which has been instituted on the basis of an FIR under Sections 406/420/467/468/471 of the Indian Penal Code, by the Branch Manager, Gulab Bagh, Branch, Uttar Bihar Gramin Bank making an allegation that the petitioner who had collected money from the depositors had not deposited the same with the Bank and instead had defalcated a huge amount to the tune of Rs. 18,43,270/-(Eighteen Lakhs Forty Three Thousand Two Hundred and seventy rupees only).

Learned counsel for the petitioner submits that the petitioner was merely a Collecting Agent and for the collections made by him, he had duly issued receipts to the depositors who have not lodged the present complaint. Learned counsel for the



petitioner submits that as soon as he used to collect the money, on each day of such collection, he used to deposit the same with the Bank and the same was deposited in the respective accounts of the depositors by the Bank, but the petitioner was not issued any receipt for the making of aforementioned deposits. Learned counsel for the petitioner further submits that save and except the entry in the register, the petitioner having not been issued any receipt, could not produce before any authority the proof that he had, in fact, deposited the amounts. He submits that for the amounts so deposited, he had also received commission which would be apparent from the pass-book of the petitioner, but unfortunately, such pass-books have been seized by the Bank and the petitioner has not a chit of papers to demonstrate his bonafides. Learned counsel for the petitioner further submits that during the course of investigation, it has come on record that the Branch Manager had approached the depositors who had been informed by the Bank that their deposits have been misappropriated by the Collecting Agent and in paragraphs No. 40 and 47 of the case diary, it has come on record that the Branch Officials approached the depositors and had taken away the receipts issued by the petitioner from them and also their respective pass-books. Learned counsel for the



petitioner submits that, save and except, the allegation made by the Branch Officials, there is no complaint by the depositors as they had been issued pass-book by the Bank. Had such deposits not been issued, the bank account would not have been opened by the petitioner and these pass-books would not have been available with the respective depositors. Learned counsel for the petitioner submits that there is a clear indication that the Bank officials themselves have misappropriated the amounts of the depositors and have now saddled the blame on the petitioner for having misappropriated the said amount. Learned counsel for the petitioner further submits that in the case diary, it has come on record that when the I.O. of the case went to inquire from the Branch Manager of the Bank, he informed that he could not furnish any document or receipts to the Investigating Officer without taking permission from his higher officials. It is thus submitted that the investigation of the case is being hampered by the action of the Bank. Learned counsel for the petitioner submits that the action of the Bank clearly indicates that they are not co-operating in the investigation and have, in fact, taken into their own custody the receipts, daily charts and pass-books of the customers and also of the petitioner to conceal the matter which clearly entitles the petitioner to the benefit of bail.



Having considered the entire facts and circumstances of the case and that there being no further cogent material in the case diary to indicate that the petitioner was in anyway involved in the alleged act of defalcation, let the petitioner above named be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Purnea, in connection with Sadar P.S. Case No. 30/2019.

(Anjana Mishra, J)

Saif/-

U		T	
---	--	---	--

