IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.10705 of 2020

Arising Out of PS. Case No.-179 Year-2014 Thana- AMAUR District- Purnia

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ABU NASAR @ MD. ABU NASAR Son of Late Md. Islamuddin @ Bhole (Branch Manager) Simindia Infrastructure Limited, Branch Amour, P.S. - Amour, Permanent resident of Village Gyandeo, P.S. - Amour, District – Purnea ... ... Petitioner/s

Versus

THE STATE OF BIHAR ... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha

For the Opposite Party/s : Mr.Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

4 06-07-2020 Heard learned Counsel for the petitioner and learned Additional Public Prosecutor representing the State, through Video Conferencing.

This application, for grant of anticipatory bail, arises out of Amour Police Station Case No. 179 of 2014, disclosing offences under Sections 420/406/409/467/468/370/371/382/ 384/34 of the Indian Penal Code.

The prosecution case, as per the First Information Report, lodged under Section 156 (3) of the Code of Criminal Procedure, 1973, on the basis of a complaint filed by one Md. Imteyaz, is that the petitioner was the Branch Manager and his wife, who was the Director of a chit fund company, namely, Simindia Infrastructure Limited. It has further been stated that the petitioner and his wife appointed the informant and some other persons as agents of the company on the assurance that they would earn Rs. 25,000/- to Rs. 1,00,000/- per month and the informant collected Rs. 20,50,735/- and deposited the same in the account of the company and other agent, Arun Kumar Sah, collected and deposited Rs. 19,60,660/- in the account of the petitioner in the year 2011-12. The informant further states that the deposited money of some of the depositors were refunded, but the petitioner and his wife worked till 31.12.2013 and all of a sudden, the branch of the company was locked and the premises was handed over to one Jamshed on rent. It has further been stated that when the informant, along with other beneficiaries, tried to contact the petitioner for refund of the deposited amount, the petitioner assured them to return the same, but the petitioner did not refund the amount on one pretext or the other.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in this case with oblique motive. He further submits that the fact of the matter is that the petitioner was a senior agent of the company and is also one of the victims inasmuch as the petitioner had also deposited some amount in the account of the company, which would be evident from the supervision note (paragraph 16 of the case diary). He further submits that the informant was also an agent of the company and from perusal of paragraphs 71, 72 and 73 of the case diary, it would be evident that in course of investigation, it has come to light that the amount deposited by the depositors in the year 2011-12 as well as the amount deposited till 2013 have been paid to the beneficiaries. He further submits that from perusal of the First Information Report, it would also be evident that the branch of the company was closed on 31.12.2013/10.01.2014, as such, there is no question of accepting any deposit by the petitioner after closure of the branch of the company. He, referring to supervision note, contained in paragraph 16 of the case diary, submits that the petitioner and his wife are innocent and they are the victims and the director of the company was one Anita Choudhary, wife of Santanu Chaudhary, having registration no. U4500MP2011PLC 026270 and account no. 032805004277. He further submits that in course of investigation, none of the depositors has stated that the amount deposited by them has not been returned by the company.

On the other hand, learned Additional Public Prosecutor, referring to paragraph 11 of the case diary, submits that the independent witness has stated that the petitioner, in connivance with other accused persons, have cheated and defalcated the amount of the depositors.

Having regard to the submissions made on behalf of the parties and taking into consideration the materials on record and the fact that in course of investigation, it has come to light that the deposits made by the depositors have been returned in the year 2011-12 and 2013 and none of the depositors has come forward in course of investigation to say that the deposits have not been returned by the company, I am inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, above named, in the event of his arrest or surrender before the Court below within six weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea, in connection with Amour Police Station Case No. 179 of 2014, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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