

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17563 of 2020**

Ram Padarth Thakur son of Late Jeebachh Thakur, R/o Pragya Niketan Hariom
nagar, Ramjaipal Road, Bailey Road, Danapur, P.S.- Rupaspur, District-Patna
..... Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh No. 1, Adv.
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 24-07-2020 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in connection with Shastri Nagar P.S. Case No. 14 of 2017 registered for the offence punishable under Section 406 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the First Information Report the informant had obtained a locker in the Raja Bazar Branch of the Punjab National Bank on 26.11.2011. According to the informant, she had not operated the locker thereafter and for the first time she went to the bank on 08.02.2016 for operating the said locker but the then Chief Manager informed her that the said locker had been lying vacant and the same has been allotted to another lady customer on 06.11.2014.

The informant alleged that her locker was linked with her savings account and she had also made a fixed deposit of Rs.25,000/- which was linked to the said locker. It is her allegation that about 60-70 tolas of gold ornaments worth Rs.20-25 lakhs were kept in the said



locker. Allegation is that the Chief Manager of the Bank had acted in conspiracy with the locker custodian (petitioner) and misappropriated the entire gold ornaments.

Learned counsel for the petitioner submits that at the relevant time, this petitioner was the 4th person in order of seniority in the branch, he was in charge of FD/RD, allotment of fresh locker and daily operation of locker but in the present case there was no issue relating to daily operation of locker.

It is submitted that in course of investigation it has come and in support thereof Annexure '3' has been shown to this Court that the locker of the informant was lying vacant and the same was broken in presence of the then Chief Manager Mr Abrar, Senior Manager Mr. Mukesh Kumar Srivastava, Advocate Mr. Sunil Kumar Singh and one customer Mr. Abhay Kumar of Jai Prakash Nagar Colony. They are the witnesses to the said breaking open of the locker.

Learned counsel has further informed this Court that in course of investigation all the four persons who had participated in the breaking open of the locker had made their statements in paragraphs 19, 27, 28 and 42 of the case diary wherein they have stated that the locker was broken in their presence and nothing was found in the locker. In course of investigation it has also come that on four occasions the informant was asked to produce the papers/documents of the gold ornaments kept in the locker but the same has not been produced. In this regard the statements made in paragraphs 34, 45 and 48 of the case diary have been referred to. The petitioner has made specific statement



in this regard in paragraphs '12' and '13' of the present application.

It is submitted that the petitioner has now retired from service and *prima-facie* there is no role of the petitioner in breaking open of the locker, he is ready to face trial and hence be granted the privilege of anticipatory bail.

Learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. It is submitted that the petitioner was in-charge of the locker and hence he does not deserve the privilege of anticipatory bail.

Having regard to the facts and circumstances of the case wherein this Court has noticed that according to the informant she was allotted the locker on 26.11.2011 and thereafter she had gone for the first time in the year 2016 to the Bank to operate the locker and it is further submission that the locker was lying vacant, hence it was broken and open in presence of the Chief Manager, the Senior Manager of the Bank, one learned Advocate as well as one customer of the Bank. The Advocate and the customer were present as witness and in their presence when the locker was opened it was found vacant, the petitioner is a retired employee of the Bank and is ready to face trial, it is not the submission of the State that his custodial interrogation is required and statements made in the petition particularly in paragraph '12' and '13' that all the four persons in whose presence the locker was opened have made their statements and there is no submission that the petitioner is not likely to cooperate in course of trial or may tamper with evidence, let the petitioner above named in the event of his arrest or surrender



within a period of six weeks from today in connection Shastri Nagar P.S. Case No. 14 of 2017 be released on bail on furnishing of bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Patna, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

The application is allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

