IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20239 of 2020

Arising Out of PS. Case No.-46 Year-2019 Thana- DUMRAO District- Buxar

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IRSHAD AHMAD KHAN Son of Late Jainuddin Khan Resident of Village - Maniya, P.S. - Gahmar, District - Gajipur (U.P.)

... ... Petitioner/s

Versus

The State of Bihar Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Bachan Jee Ojha
For the Opposite Party/s : Mr.Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 14-07-2020 The Court proceeding has been conducted through virtual mode.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406 and 420 of the IPC.

The prosecution case as per the written report of Md. Arman Khan, submitted to the SHO, Dumraon is to the effect that the petitioner is resident of U.P. and at present he resides in Dumraon and has been authorized to send people abroad under proper Visa. Consequently, the informant contacted the proprietor of Vinayak Enterprises (petitioner Irshad Ahmad Khan) who also deals in sending people abroad and on his assurance, the informant transferred in the account of the petitioner, namely Benila Shivshankar Gajala, a sum of Rupees

Five Lacs and consequently, issued a forged visa. On 9.12.2018, the informant demanded his money then, he was being threatened.

Learned counsel for the petitioner submits that the name of the petitioner's wife is Savina Khatoon and not Benila Shivshankar Gajala, hence the amount alleged to have been transferred, has not been transferred in the account of petitioner's wife. Statement to that effect has been made in paragraph 6 of the petition, which reads as follows:

> "That the informant has lodged case in misconception because the said Sanna Khan @ Gajala is not his wife rather his wife is Robina Khatoon @ Shabinba Khatoon. .."

Statement has also been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP submits that the accusation is specific against the petitioner.

Considering the fact that the petitioner has denied the account holder being his wife, let the petitioner above-named, in the event of arrest of surrender, be released on bail provisionally for six months in connection with Dumraon P.S. Case No. 46 of 2019, pending before the learned CJM, Buxar, subject to the conditions as laid down under Section 438(2) of the Cr.P.C

However, in view of the present pandemic, COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within six months after getting a report from the investigating agency that the bank account in which the amount was transferred by the informant is not the bank account of the petitioner's wife, on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the Dumraon P.S. Case No. 46 of 2019, pending before the learned CJM, Buxar.

However, if it is found that the bank account holder is the wife of the petitioner, then the petitioner will surrender and pray for regular bail.

The learned Court below will further be at liberty to extend the period of provisional anticipatory bail further if the court proceeding in physical mode will not resume in next six months.

Accordingly, the present application sands disposed of.

(Dinesh Kumar Singh, J)

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