

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22130 of 2020

Arising Out of PS. Case No.-455 Year-2017 Thana- ARA NAGAR District- Bhojpur

ADITYA NARAYAN SINGH Son of Raj Nath Singh Resident of Village-
Piparahiya, P.S.-Ara Muffasil, District-Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Singh

For the Opposite Party/s : Mr.A.G

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-09-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel appearing for the petitioner and Shri Chandra Bhushan Prasad, learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Ara Town P.S. Case No. 455 of 2017 for the offence punishable under Sections 406 and 420 of the Indian Penal Code.

The case of the prosecution in brief is that the informant is stated to have handed a sum of Rs. 9.20 lakhs to the petitioner herein, however, subsequently the petitioner had refunded only a sum of Rs. 3.10 lakhs and a sum of Rs. 6.10 lakhs is outstanding for payment. It is further alleged that the petitioner had given two cheques dated 06.04.2017 and 08.04.2017 for a sum of Rs. two lakhs each, however, the same have stood dishonoured.



The learned counsel for the petitioner has submitted that the petitioner is innocent and he is languishing in custody since 07.03.2020. It is further submitted that since the petitioner is languishing in custody, the petitioner is not in a position to pay the aforesaid sum of Rs. four lakhs.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties and perused the materials on record. At this juncture, it would be relevant to point out that the petitioner had approached this Court earlier for grant of anticipatory bail and this Court by an order dated 14.12.2017 passed in Criminal Misc. No. 56742 of 2017, had upon undertaking of the petitioner to the effect that he would refund a sum of Rs. four lakhs to the informant within a period of four months by means of demand draft or through RTGS, had granted the privilege of anticipatory bail to the petitioner herein, however, it was stated in the said order that in case the petitioner fails to pay the aforesaid sum of Rs. four lakhs to the informant within a period of four months, the learned court below shall cancel the bail bond of the petitioner immediately thereafter.

It is apparent that the petitioner has not honoured his undertaking of refunding a sum of Rs. 4,00,000/- (rupees four lakhs) to the informant and thereby has tried to even hoodwink this Court and obtain the privilege of anticipatory bail. In fact this Court had



granted an opportunity to the learned counsel appearing for the petitioner on the last date of hearing i.e. 4th September, 2020 to seek instruction from the petitioner as to whether he is ready to honour his undertaking of making payment of a sum of Rs. four lakhs to the informant, to which today the learned counsel for the petitioner has submitted that the petitioner is not in a position to pay any amount and has tried to argue the matter on merits.

This Court finds that the petitioner has not approached this Court with clean hands and in fact has tried to overreach the process of law and has taken the Court for a ride by undertaking to pay a sum of Rs. four lakhs to the informant, during the anticipatory bail proceedings and thereby obtaining anticipatory bail, however, later on he has violated the undertaking given before this court, earlier by refusing to pay a sum of Rs. four lakhs to the informant and thereby committed a default. Thus, this Court finds that no sympathy can be shown to the petitioner, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

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