IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47454 of 2019

Arising Out of PS. Case No.-32 Year-2014 Thana- ECONOMIC OFFENCES, BIHAR District- Patna

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GAURAV KUMAR KARN, Son of Dinesh Kumar Karn Proprietor, Maa Offset Printing Press and Photo Stat, Samastipur, Resident of Village- Barah Patthar, Ward No. 15, P.S.- Samastipur Town, District- Samastipur.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Economic Offence Unit, Bihar, Patna. Bihar, Patna.
3. General Manager of Indian Overseas Bank, Regional Office, Patna. Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha

For the Opposite Party/s : Mr. Nand Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

10 06-10-2020 Heard Mr. Jitendra Narain Sinha, learned counsel for the petitioner and Mr. Vishwanath Prasad Singh, learned Senior Advocate, assisted by Ms. Soni Srivastava, for the Economic Offence Unit.

The Indian Overseas Bank is represented by Mr. Sanjay Singh Thakur and the State is represented by Mr. Nand Kishore Prasad.

The petitioner seeks bail in anticipation of his arrest in connection with Economic Offences P. S. Case No. 32 of 2014 dated 28.07.2014, instituted for the offences under Sections 420, 406/34 of the Indian. Later, Sections 409, 468, 471 and 120B of the Indian Penal Code have been added.

From the written report of the General Manager of the Indian Overseas Bank, Regional Office, Patna it appears that a loan was obtained in the name of M/s Nirmal Water Drinks, Industrial Area, of which there were two partners, namely, Ms. Mukesh Kumar of Unnao, Uttar Pradesh and Mr. Veeru of Samastipur. The loan turned bad.

The F.I.R. was registered in the year 2014. After about four years of registration of the F.I.R., the name of the petitioner has transpired as one of the conspirators in swindling off the public money from the Bank.

The petitioner is the owner of Maa Offset Printing Press in whose account an amount of Rs. 5,00,000/- was deposited, which was withdrawn on the same date. The explanation offered by the petitioner for the same appears to be absolutely wrong. The petitioner has submitted in his bail petition that he is one of the customers of the Indian Overseas Bank and had obtained a loan of Rs. 9,50,000/-, for which he had offered two cheques as surety. One of those cheques had been misused by the Bank authorities and the petitioner has wrongly been made accused in this case.

On investigation, this plea of the petitioner was found to be absolutely false.

From the counter affidavit filed on behalf of the Economic Offence Unit, it appears that the two partners of M/s Nirmal Water Drinks, Industrial Area had contacted the Proprietor of Maa Offset Printing Press, namely, the petitioner, for supply of printed materials, hoardings etc. A bill was raised for the aforesaid supply to the tune of Rs. 5,00,000/- which was passed by the Bank against the loan which was given to the two partners of M/s Nirmal Water Drinks, Samastipur and the amount of the bill was credited in the Bank account of M/s Nirmal Water Drinks. Later, this amount was credited in the Bank account of the petitioner which was withdrawn. Since the loan has become bad, it is presumed and is alleged that the petitioner has played an active part in siphoning off public money. The purpose for which the loan was taken by the two partners of M/s Nirmal Water Drinks has completely been abandoned. The unit for manufacture of mineral water has not yet been set up.

In the order dated 16.11.2019, a Bench of this Court while granting interim reprieve to the petitioner has noted the factual details and has raised a pertinent query regarding the slackness of the investigating agency in not catching hold of the Branch Manager of the Bank who actually hails from Uttar Pradesh where also he had disbursed loan to the partners of M/s Nirmal Water Drinks.

Later, when he was transferred to Samastipur, he again used his powers of granting loan to the aforesaid two main accused persons, who are said to be the partners of the afore-noted firm.

In any view of the matter, the investigation proceeded and up till now only three persons have been charge-sheeted, which includes one of the partners of the firm, namely, Mr. Mukesh Kumar, the Branch Manager of the Indian Overseas Bank, in his absentia and one Mr. Verma.

There is another aspect to this case, which becomes evident from the bare reading of the counter affidavit filed on behalf of Economic Offence Unit.

The petitioner is not a complete stranger to the partners of M/s Nirmal Water Drinks, the loanees. The father of the petitioner had identified the partners for the purposes of obtaining loan.

Be that as it may, the role played by the petitioner is very limited in this larger game plan of siphoning off funds from the Indian Overseas Bank.

The investigation against the petitioner is pending.

Under the aforesaid circumstances and taking a holistic view of the matter, this Court is inclined to grant anticipatory bail to the petitioner.

The petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in connection with Economic Offences P. S. Case No. 32 of 2014, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

One of the bailors of the petitioner shall be his close relative.

At the time of granting bail to the petitioner, the court below shall ensure that the petitioner gives a personal undertaking apart from the bond that he shall not leave the territorial confines of the district of Samastipur and if he does so, he shall first intimate the Officer Incharge of the concerned Police Station and shall also obtain permission from the court below. He shall also, in the aforesaid undertaking, give his mobile telephone no. which he shall keep operative and shall intimate his whereabouts to the Officer Incharge of the concerned Police Station. The petitioner shall also give an undertaking that he shall have his presence marked before the Officer Incharge of the concerned Police Station every month. For convenience, he shall present himself on Monday of the first week of every month.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

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