

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64038 of 2019

Arising Out of PS. Case No.-254 Year-2018 Thana- AURANGABAD TOWN District-
Aurangabad

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BINOD KUMAR PRABHAT Son of Rambachan Bhagat @ Ram Vachan
Bhagat Resident of Village - Dani Bigha, P.O. and P.S.- Aurangabad, District-
Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nandu Ram Son of Dukhi Ram Branch Manager, The Aurangabad District
Central Co-Operative Bank, Aurangabad (Bihar), Branch, Aurangabad

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 5886 of 2020

Arising Out of PS. Case No.-254 Year-2018 Thana- AURANGABAD TOWN District-
Aurangabad

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NANDU RAM S/O Dukhi Ram Resident of Village - Mirzapur, P.S. - Rahui,
District - Nalanda.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Branch Manager, Aurangabad District Central Co-operative Bank,
Aurangabad (Bihar), Branch - Aurangabad, P.S.- Aurangabad(T), District -
Aurangabad.

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 64038 of 2019)

For the Petitioner/s : Mr. Devendra Prasad Sinha, Sr. Adv.
Mr. Bhaskar Shankar, Adv.

For the ADCCB : Mr. Surendra Prasad Singh, Adv.

For the Opposite Party/s : Mr. Syed Mojibur Rahman

(In CRIMINAL MISCELLANEOUS No. 5886 of 2020)

For the Petitioner/s : Mr. Krishna Prasad Singh, Adv.
Mr. Bhaskar Shankar, Adv.

For the ADCCB : Mr. Surendra Prasad Singh, Adv.

For the APP : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 17-06-2020

The matter has been taken up through virtual court



proceeding.

Heard learned counsels for the petitioners and the State.

The petitioner, Binod Kumar Prabhat, (vide Cr. Misc. No. 64038 of 2019) being the Incharge Manager and petitioner Nandu Ram, (vide Cr. Misc. No. 5886 of 2020) being the In-Charge Cashier are languishing in custody since 23.07.2019 and 25.09.2019, respectively has preferred the present application for grant of bail in a case registered for the offences punishable under Sections 420, 409 and 120B of the IPC, 1860.

The prosecution case, as per the written report of the Branch Manager, Aurangabad District Central Co-operative Bank, submitted to the S.H.O., Aurangabad Town Police Station is to the effect that the Chairman of Badwa PACCS, Aviram Prasad and Assistant Manager, Ramashish Yadav have their account in the Aurangabad District Central Co-operative Bank and they withdrew Rs. 58,90,463/- on different dates in the year 2009-10. Thereafter by virtue of old deposit voucher, the deposit was again shown in the year 2016 fraudulently and the Chairman and Assistant Manager of the Badwa PACCS again withdrew Rs. 58,99,463/- and thereby caused financial loss to the bank.



Mr. Devendra Prasad Sinha, learned counsel appearing on behalf of petitioner, Binod Kumar Prabhat submits that the petitioner was the In-Charge Manager in the bank in question and he is not named in the FIR. In fact, his name transpired during enquiry conducted by the bank when it was found that his Identity code of the bank was used for fraudulent withdrawal of the alleged money. It is further submitted that actual withdrawal was made by the Chairman and Assistant Manager of the Badwa PACCS and they have been granted bail by different Co-ordinate benches of this Court, vide order dated 27.08.2019, passed in Cr. Misc. No. 52460 of 2019 and vide order dated 25.11.2019, passed in Cr. Misc. No. 64785 of 2019, respectively. The investigation has already been concluded and in the present situation created due to the pandemic, Covid-19, since the physical court proceeding is not functional, there is no likelihood of trial being concluded in near future.

Mr. Krishna Prasad Singh, learned Senior counsel appearing on behalf the petitioner, Nandu Ram submits that at the relevant time, the petitioner was the In-Charge Manager of the bank in question and actually fraud was played by the Chairman and Assistant Manager of the concerned PACCS and by virtue of old deposit voucher, they withdrew money twice



from the bank and withdrawal by them has not been denied and both of them have been granted bail.

Learned counsel for the Aurangabad District Central Co-operative Bank submits that during enquiry, it was found that these two petitioners, being the In-Charge Manager and In-Charge Cashier, respectively, manipulated the records and allowed the fraudulent withdrawal of money, and hence, thrust of accusation is against the petitioners.

Considering the fact that withdrawal of money by the Chairman and Assistant Manager of the PACCS is not in dispute and admitted, and both of them have been granted bail by different Co-ordinate benches of this Court, the investigation has already been concluded and the fact that in the present situation, created due to pandemic, Covid-19, since the physical court proceeding is not functional, there is no likelihood of trial being concluded in near future, let the petitioners above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned CJM, Aurangabad, connection with Aurangabad (Town) P.S. Case No. 254 of 2018.

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 bail of the petitioners will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) each with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned CJM, Aurangabad, connection with Aurangabad (Town) P.S. Case No. 254 of 2018.

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

(Dinesh Kumar Singh, J)

Amrendra/-

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