IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79816 of 2019

Arising Out of PS. Case No.-277 Year-2019 Thana- MOTIHARI TOWN District- East Champaran

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NITESH KUMAR Son of Chandeshwar Rao @ Chandreshwar Rao Resident of Village - Laukaria, Ward No.4, P.O.- Laukaria, P.S.- Bairiya, Distt.- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Jagdish Prasad Singh Son of Late Nageshwar Prasad Singh Competent Officer (I.O.C.L.) Resident of Jay Prakash Nagar Bhutnath Road, P.S- Patrakar Nagar, District-Patna 800026

... ... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Dharmendra Kumar Paswan, Advocate
For the State	:	Mr. Choubey Jawahar, APP
For the I.O.C.	:	Mr. Uday Bhan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

7 08-09-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Mr. Ravish Kumar, learned counsel, submits that after getting N.O.C. from the previous learned counsel, he has appeared for the first time in this case. Hence, an adjournment be granted to facilitate him to file a vakalatnama.

Prayer is refused.

Heard learned counsel for the petitioner, learned APP for the State and learned counsel for the Indian Oil Corporation.

The petitioner is apprehending his arrest in connection with Motihari Town P.S. case No.277 of 2019 registered under Sections 420, 467, 468, 471 and 120(B) of the Indian Penal Code, pending in the court of Chief Judicial Magistrate, East Champaran, Motihari.

Allegation is that the accused persons took the bank employees into their collusion and forged the signature of the informant and withdrew Rs.26,20,560/- from the account of the IOCL company. It is also alleged that outsourced employees of the IOCL, namely, Nitesh Kumar (petitioner) and Vijay Shankar are also involved with the accused persons.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The name of the petitioner has transpired in the present case merely on the basis of suspicion. There is no substantive evidence to suggest that any wrongful gain or wrongful loss has been caused on the part of the petitioner to the Indian Oil Corporation.

On behalf of the State and the counsel for the opposite party No.2, it is submitted that the petitioner is named in the

F.I.R. In course of investigation sufficient material has come in paragraph nos.16, 36, 50, 116 and 121 of the case diary. It is the petitioner along with other accused, who was entrusted to give account payee cheques to the cultivators, in whose land pipe line was installed. Thus the amount was being paid as compensation for the right users. The cheques were to be issued as account payee cheque. Instead that with the fake signature several cheques were issued in the name of different persons and fake withdrawal was made for an amount of Rs.26,20,560/- by the act of the petitioner and other accused persons. The Indian Oil Corporation has put to loss of the aforesaid amount.

Considering the aforesaid facts and circumstances, I am not inclined to grant anticipatory bail to the petitioner. The same is rejected.

If the petitioner surrenders before the court below and pray for regular bail, the same shall be considered on its own merit without being prejudiced by this order.

(Sudhir Singh, J)

Narendra/-

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