**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.83910 of 2019**

Arising Out of PS. Case No.-77 Year-2017 Thana- KAJRA District- Lakhisarai

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PARMANAND SINGH @ PRAMANAND SINGH Son of Basudev Singh @ Laddu Singh, Resident of Village- Lay, P.S.- Kajra (Kajra Pax), District- Lakhisarai.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sunita Devi Wife of Late Shyamdev @ Shyamdev Mahto, Resident of Village- Madhopur P.O.- Kajran, P.S.- Kajra Dist.- Lakhisarai.

... ... Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Vikram Jeet, Adv. |
| For the State | : | Mr.Amit Kumar Rakesh, APP |
| For the Informant | : | Mr. Anshuman Pandey, Adv. |

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**
ORAL ORDER

6 04-11-2020 Heard Mr. Vikram Jeet, learned counsel for the petitioner, Mr. Amit Kumar Rakesh, learned APP and Mr. Anshuman Pandey, learned counsel for opposite party no.2 (informant) through Video Conferencing.

The petitioner apprehends his arrest in Kajra P.S. Case No.77 of 2017 registered under Sections 406, 409, 420, 467, 468, 471 and 120(B) of the Indian Penal Code.

The informant filed Complaint Case No.563C of 2017 on the basis of which the present F.I.R. was registered. The informant alleged in her complaint petition that her husband opened two saving accounts bearing nos.6418 and 6417 and deposited Rs.14,69,147/- in Fixed Deposit. The list of the dates and the receipts of deposit has been given in para 1 of the complaint petition. The informant further alleged that her husband died on 04.10.2014 and when the informant approached PACS Bank, the officials informed her that her amount was misappropriated by the bank officials. Thereafter the informant firstly approached the police and when the police did not register the case, she filed complaint case and thereafter the present case was registered.

Learned counsel for the petitioner submits that from perusal of para 1 of the complaint petition, it would appear that the husband of the informant deposited first amount on 21.02.2009 and thereafter the husband of the informant deposited the amount till the year 2018. The petitioner retired from service in the year 2008. The petitioner retired much before the date of opening of the accounts by the husband of the informant. Therefore, the petitioner has not defalcated even a single farthing deposited by the husband of the informant. It is further submitted that opposite party no.2 (informant) filed counter affidavit and alleged that Renu Devi (Chairman of Srikishun PACS) also lodged Kajra P.S. Case No.05 of 2019 in which the petitioner is also an accused but the petitioner has not mentioned this fact in para 3 of the bail petition. It is further submitted that the Chairman of PACS has appended a list of borrowers of the banks and even during the tenure of the petitioner as PACS Manager, the loan was disbursed to the borrowers in the year 2006-2007. It is further submitted that the petitioner was in service in 2006-2008 but there is no any particular instance in the counter affidavit to show that the petitioner has illegally granted loan to any borrower. It was the duty of the successor of the petitioner after 2008 to realize the loan amount from the borrowers in accordance with law but if any laxity is committed by the successor of the petitioner, the petitioner cannot be held to be responsible for any misappropriation of money in disbursing the loan to the borrowers. Therefore, the petitioner deserves anticipatory bail.

On the other hand, learned A.P.P. and learned counsel for the informant vehemently opposed the prayer for bail and submitted that from the list appended to Kajra P.S. Case No.05 of 2019, it would be clear that the petitioner during his tenure as PACS Manager disbursed loan to different persons and it was found during the course of audit as well as by the subsequent PACS Chairman on verification of the records that the petitioner also disbursed loan to such persons without assessing the capacity of the borrowers to return the money and that is why most of the loans advanced by the PACS Bank became bad debts. The petitioner was one of the managers of the PACS Bank and, therefore, he does not deserve anticipatory bail.

Perused the records and after having heard the submissions of both sides, I find that the informant of the present case, of course, named the petitioner in the complaint petition but from perusal of deposit receipts appended in para 1 of the complaint petition, it would appear that all the deposits were made by the husband of the informant. It is not in dispute that the petitioner retired in the year 2008 from the post of PACS Manager. In the subsequent case being Kajra P.S. Case No.05 of 2019 in which the petitioner is also an accused, Renu Devi (Chairman of Srikishun PACS) made allegation of disbursement of loan to different persons, but it appears from the list appended to the F.I.R. that only 2 or 3 persons were disbursed loan during the service tenure of the petitioner in the year 2006-2007. The petitioner retired immediately thereafter in the year 2008. It has nowhere come even in the diary that the bank officials made an attempt in accordance with law to realize the amount of loans from the borrowers. Therefore, I find that in fact the informant of the present case has although mentioned the name of the petitioner but has not made any subsequent allegation of misappropriation against the petitioner.

Having considered the facts and the nature of allegations made against the petitioner, the petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of six weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. III, Lakhisharai in connection with Kajra P.S. Case No.77 of 2017, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

**(Prabhat Kumar Jha, J)**

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