IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78240 of 2019
Arising Out of PS. Case No.-319 Year-2018 Thana- PATLIPUTRA District- Patna

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LALDITSAK @ LALDISTAK @ LALTISAK Son of Thangsangvung Resident of Kangrengdor, Kangreng, Ngaphabung, P.S.- Parbung, District- Churachandpur, State- Manipur.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Arun Kumar
For the State	:	Mr.Anish Chandra
For the E.O.U.	:	Mr. Vishwanath Pd. Sinha, Sr. advocate Mrs. Soni Shrivastava
for the Informant	:	Mr. Kumar Rabish

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 15-06-2020 Heard both sides.

The matter has been taken up through video conferencing.

The petitioner seeks bail in Patliputra P.S. case No. 319/2018 registered u/s 420, 379 of the IPC and u/s 66(C) of the I.T. Act.

The informant lodged the information alleging therein that she received SMS and E-mail that she would get 85000/- pound for which she had to pay Rs. 27,000/-. The informant deposited Rs. 27,000/- on 04.05.2018. On 05.05.2018 she deposited Rs. 35,000/-. The unknown caller used to persuade the informant to deposit the amount to different accounts but she did not receive assured amount of 85000/- pound. The informant deposited Rs. 84,56, 645/- in different accounts as disclosed by the caller. The informant again received SMS and E-mail but she got belief that the callers are cheater and, accordingly, she gave information to the police. During the course of investigation the I.O. traced out the different mobile Nos. from which calls were made to the informant. It appears that the informant deposited Rs. 84,56,645/- in 30 accounts as enumerated in paragraph 30 of the case diary.

Mr. Arun Kumar, the learned counsel for the petitioner, submits that petitioner is not named in the FIR. The informant during the course of investigation informed the I.O. on 27.09.2018 that she received a call to deposit 2,50,000/- in an account. The I.O. got information that the account in which the informant deposited Rs. 2000/- on 01.10.2018 in pursuance of the call received by her on 27.09.2018 belonged to the petitioner. The petitioner was apprehended and he disclosed that one of the accused persons took his ATM card on the pretext of paying him Rs. 7000/- and out of Rs. 7000/- only Rs. 5000/- was paid to the petitioner. The petitioner himself was cheated and on bonafide belief the petitioner handed over ATM card to another accused. It is further submitted that petitioner is in custody since 02.10.2018. Only meager amount of Rs. 49,000/- was deposited in his account and it has nowhere come that petitioner ever called anybody or anybody else has deposited money in the account of the petitioner or in the account of any other person and the petitioner deserves bail.

While opposing the prayer for bail, Mrs. Soni Shrivastava, the learned counsel for the E.O.U., submits that it is deep rooted conspiracy and related to the cyber crime. All the accused persons involved in the case cheated many persons such as informant and the informant was parted with Rs. 84,56,645/- on assurance of getting 85000/- pound but she neither get 85000/- pound nor the money deposited by her was returned. During the course of investigation, it also transpired that 75 transactions were made from the account of the petitioner and huge amount was withdrawn. This fact itself shows that petitioner was also a party to the conspiracy for cheating innocent persons, who were allured to deposit amount in lieu of return of heavy amount, therefore, the petitioner does not deserve bail.

Perused the FIR and the case diary.

Of course, the petitioner is not named in the FIR but at the outset it appears that the petitioner and other accused persons are member of well knit gang who used to allure the informant and others and persuaded the informant and others to deposit money in different accounts which was later on withdrawn through ATM and other withdrawing methods. The informant alone was parted with Rs. 84,56,645/-. From paragraph 238 of case diary it appears that 75 transactions were made from the account of the petitioner and it cannot be said that petitioner innocently handed over his ATM card to another accused for withdrawal of the amount deposited in the account of the petitioner by different persons. The petitioner is an active member of a gang of cyber crime.

Considering the facts aforesaid and the nature of allegation made against the petitioner, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

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