

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.80035 of 2019**

Arising Out of PS. Case No.-589 Year-2018 Thana- BAGHA District- West Champaran

Santosh Kumar Pathak @ Santanu Pathak, Male, aged about 44 years, Son of Late Parsuram Pathak Resident of Village- Pathkauli Malkauli, Ward No. 3, P.O.- Malkauli, P.S.- Bagaha, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. Branch Manager Central Bank of India Bagha, District- West Champaran. West Champaran.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ajay Prasad, Advocate
For the Opposite Party/s	:	Mr.Ram Priya Sharan Singh, A.P.P.
For the Bank	:	Mr. Ajay Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 04-09-2020 Heard Mr. Ajay Prasad, learned counsel representing the petitioner, Mr. Ajay Kumar Sinha, learned counsel representing the Bank (Opposite Party No. 2) and Mr. Ram Priya Saran Singh, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Bagaha Pathkauli P.S. Case No. 589 of 2018 registered for the offence under Sections 467, 468, 471 and 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that the allegation against the petitioner is that of providing a sale deed to the Bank for the purpose of creating a security interest on a piece of land which did not belong to him or his father. It is



alleged that he obtained loan of Rs. 5 lakhs from the Bank in the year 2008 for the purpose of running of Rice Mill and represented the Bank that the sale deed is in the name of his father Parsuram Pathak which was later on found to be interpolated and the land was subject matter of acquisition for which the compensation was claimed by the uncle of the petitioner.

Learned counsel submits that although the account of the petitioner was declared Non-Performing Asset (N.P.A.) with a sum of Rs. 9 Lakhs approximately, the F.I.R. has been lodged showing more than Rs.21 lakhs outstanding to the bank, at this stage in order to show his bonafide the petitioner is ready to deposit a sum of Rs. 18 Lakhs with the Bank and to discuss the matter with the Bank for one time settlement in terms of the recovery policy of the Bank. Mr. Ajay Prasad, learned counsel has after seeking instruction and having a clear discussion at the bar submitted that for the present the petitioner will deposit a sum of Rs. 5 Lakhs with the Bank whereupon his bail bond for release may be provisionally accepted, once he is released from jail he will deposit the balance Rs. 13 Lakhs in three equal monthly installments with the Bank.

Mr. Ajay Kumar Sinha, learned counsel representing



the Bank submits that although the allegations against the petitioner are that of cheating the Bank and committing forgery of records while providing security to the Bank, in the interest of finances of the Bank, considering the present economic condition and Covid-19 situation, the prayer of the petitioner may be considered subject to his fulfilling the aforesaid conditions. The Bank will receive the said amount without prejudice to its claims subject however that the Bank would be ready to settle the account with the petitioner in terms of the recovery policy of the Bank.

Learned APP for the State has endorsed the submission of Mr. Sinha, learned counsel representing the Bank.

Having regard to the facts and circumstances of the case, in the nature of submissions advanced at the Bar, the matter of the recovery of public money being more important at this stage, considering the offer made by the petitioner and the submission of learned counsel for the Bank, this Court directs that in case the petitioner deposits Rs. 5 Lakhs within six weeks from today with the Bank and furnishes his bail bond in the court below with two sureties of Rs. 25,000/-(Rupees Twenty Five Thousand) each to the satisfaction of learned Additional Chief Judicial Magistrate, Bagaha, West Champaran in



connection with Bagaha Pathkauli P.S. Case No. 589/2018, on being satisfied that the petitioner has deposited the amount of Rs. 5 Lakhs with the Bank, learned court below shall release the petitioner on provisional bail for a period of four months. Thereafter, on being satisfied that the petitioner had deposited the remaining amount of Rs. 13 Lakhs in three equal monthly installments within the aforesaid period, the court below shall confirm the bail of the petitioner on the same bail bond, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that they will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19



Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

Once the petitioner is released from jail he would take steps to discuss the matter with the authorities of the Bank for final settlement of account and it is expected that the Bank shall proceed to settle the account in accordance with its recovery policy.

The order passed by this court would not be treated as any reflection on the merit of the claim of the Bank.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

