IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3471 of 2020

Arising Out of PS. Case No.-1 Year-2019 Thana- ECONOMIC OFFENCES, BIHAR District- Patna

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CHANDAN KUMAR, Son of Ram Chandra Prasad Lal, R/o Village - School Pona, Sarjahpur, P.S. - Choukaliya, District - Uttar Dinajpur (West Bengal).

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Economic Offence Unit, Bihar, Patna through Superintendent of Police, Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Dr. Bidhu Ranjan, Advocate
For the E.O.U.	:	Mr. Vishwanath Prasad Singh, Sr. Advocate Ms. Soni Srivastava, Advocate
For the Opposite Party/s	:	Mr. Anand Mohan Prasad Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

8 07-10-2020 The matter has been taken up through virtual Court proceeding.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406, 409, 420, 120B, 467, 468, 471 and 472 of the Indian Penal Code.

Petitioner was one of the Directors of MSCS Credit Cooperative Society Limited in between 01.07.2010 to 07.10.2014. Petitioner is not named in the FIR. However, allegation is that the Director Md. Shamim Akhtar and other FIR named accused persons induced different investors to deposit money with the company assuring that the money would be doubled after certain period. Different customers deposited their money. However, the company fled away along with their money.

Mr. N. K. Agrawal, learned Senior Counsel for the petitioner submits that there is no direct material against the petitioner that he was directly involved in receiving money from the customers or any deposited money was transferred to the account of the petitioner. On 07.10.2014, the petitioner resigned and joined railway service. Therefore, in absence of any direct evidence against the petitioner vicarious liability cannot be fixed in a criminal case. Reliance has been placed on the case of **Maksud Saiyed** Versus **State of Gujarat And Others** reported in **(2008) 5 SCC 668**.

Mr. Vishwanath Prasad Singh, learned Senior Counsel appearing for the Economic Offence Unit contends that the FIR has been registered under the Bihar Protection of Interest of Depositors (in Financial Establishments) Act, 2002 also and the deposit made by different persons comes within the definition of the word “deposit” as defined in Section 2(c) of the Act. Therefore, prayer for anticipatory bail is specifically barred under Section 15(5)(b) of the said Act.

Learned Senior Counsel has referred to different statements of the witnesses recorded by the police wherein they have stated that the petitioner actively participated by convening meetings and persuading the depositors to invest in the company. Even the agent of the company stated before the police that the petitioner used to visit Forbesganj and held meeting with the agents and the depositors and was persuading them to deposit money with the company. Therefore, the petitioner actively participated in the crime alleged. Hence, the case of Maksud Saiyed (**supra**) would not be applicable in the facts and circumstances of the case.

Considering the nature of allegation and material available on the record, I am not inclined to enlarge the petitioner on anticipatory bail in connection with Economic Offences P.S. Case No. 01 of 2019 pending in the Court of learned Chief Judicial Magistrate, Araria/successor Court.

Petitioner may surrender and pray for regular bail which shall be considered without being prejudiced by this order.

(Birendra Kumar, J)

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