

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11662 of 2021**

Arising Out of PS. Case No.-7 Year-2020 Thana- EAST COLONY District- Munger

NITISH KUMAR @ D.N. Son of Kanchan Kumar @ Kanchan Singh
Resident of Village - Chakpar, P.s.- Rajgir, Dist.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Udbhav, Adv.

For the Opposite Party/s : Mr.Ashok Kr. Singh, APP

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 08-07-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with East Colony P.S. Case No.07 of 2020 registered for the offence punishable under Section 420 of the Indian Penal Code and section 66(d) of the Information and Technology Act.

The prosecution case in short is that in between 7.1.2020 to 13.1.2020 through the ATM Card of the informant Rs.2,65,103/- were allegedly illegally withdrawn although the



ATM card is still in his possession and he has not withdrawn the said amount.

It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has not committed any offence as alleged in the FIR. No such occurrence as alleged has ever took place. He is not named in the FIR. His name appeared in this case only on the basis of confessional statement of the co-accused Raunak Kumar. The said Raunak Kumar and informant are known to each other and the informant has recognised in the CCTV footage of the ATM that Raunak Kumar was withdrawing the money from cloned ATM. However the said Raunak Kumar has implicated the petitioner as they are co-villagers and have inimical term. The petitioner has got land dispute with Raunak Kumar over the irrigation of land and in the confessional statement also, Raunak Kumar has stated that he has quarrel with the petitioner, as such, it is quite apparent that he has implicated the petitioner due to enmity. No incriminating article has been recovered from the conscious physical possession of the petitioner. It is also clear from the impugned order that Raunak Kumar paid entire amount which was withdrawn from the account of informant and was granted bail by the learned court below. The petitioner has two criminal



antecedent and has been languishing in custody since 04.12.2020, as such, he may be enlarged on bail.

Learned APP for the State opposed the prayer for bail.

Considering the facts and circumstances of this case, since the entire money has been returned to the informant, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, 1st, Munger, in connection with East Colony P.S. Case No.07 of 2020, subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of



failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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