IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10797 of 2020

Arising Out of PS. Case No.-182 Year-2019 Thana- KURSAILA District- Katihar

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1. SUBODH MANDAL Son of Bhola Mandal Resident of Village - Maliniya, P.S.- Kursela, District- Katihar
2. Bachhi Mandal Son of Bhahmadeo Mandal Resident of Village - Maliniya, P.S.- Kursela, District- Katihar
3. Nakul Mandal Son of Dukkhan Mandal Resident of Village - Maliniya, P.S.- Kursela, District- Katihar
4. Bodh Narayan Mandal Son of late Gainu Mandal Resident of Village - Tingharia, P.S.- Kursela, District- Katihar

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar, Advocate
For the Opposite Party/s : Mr.Ashok Kumar, APP
For the Informant : Mr. Vinod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

11 08-01-2021 Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the informant.

The petitioners have filed the instant application for grant of anticipatory bail apprehending their arrest in connection with Kursela P.S. Case no. 182 of 2019 registered under sections 406, 420, 120B and 34 of the Indian Penal Code.

As per allegation in the FIR, it is stated by the informant that the four petitioners herein were regularly giving suggestions and enticing the informant with respect to savings and investment. Having got influenced by their suggestions, it is stated that the informant from time to time deposited large sum of money in the bank being run in the private house of the petitioner no. 1. It is stated that as on 25.2.2016 the balance in the account of the informant was Rs. 2,56,628/-. Ever since 2007 on the informant asking for withdrawal of the money deposited by him, the accused persons on one pretext or the other did not permit the same. Subsequently, they assured that the amount would be returned but they have usurped the money.

It is submitted by learned counsel for the petitioners that the allegations as levelled in the FIR are false and concocted. The petitioners have no role to play in the alleged offence or the so-called Bank where the informant is stated to have deposited the money. Except for a bald statement that the bank was running in the private house of petitioner no. 1, there is no other material to connect the four petitioners with the alleged crime. Further, referring to the enclosure of the bank account which forms part of the FIR it is submitted that while the informant talks about his balance on 25.2.2016, the copies of the bank account shows the last entry as of the year 2006 and there is an unexplained delay of 13 years in lodging of the instant FIR.

The application for bail is opposed by learned counsel for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that all the four petitioners are named in the FIR and there is a categorical statement in the FIR that it was as a result of instigation by all of them that the amount was deposited by the informant in the bank being run in the private residence of the petitioner no. 1. It is submitted that the petitioner nos. 1 and 2 are own cousins, the petitioner nos. 2 and 4 are sarhu (brother-in-law) and petitioner nos. 1 and 3 are neighbours. Thus, all the petitioners are not only connected and named in the FIR but have a hand in running of the bank. It is further submitted that a number of other cases have been lodged against the petitioners with respect to criminal breach of trust and cheating with respect to deposit by various investors in the same bank and different cases are being tried at different stages in the learned Court below. It is finally submitted that from the FIR itself it would be evident that the informant was asking for withdrawal of his money since the year 2007 itself and thus, there is no delay in lodging of the instant FIR. It is finally submitted that the case against the petitioners have been found to be true and charge sheet has been submitted in the case.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the material that has transpired in course of investigation as also the allegation as made in the FIR wherein except for the statement that the bank was being run in the house of the petitioner no. 1 which according to learned APP appearing for the State also does not find support from the place of occurrence and other materials that has transpired in course of investigation, the Court is inclined to enlarge the petitioners on anticipatory bail. The petitioners are directed to surrender in the Court below within a period of eight weeks from today and in the event of their arrest or surrender in connection with Kursela P.S. Case no. 182 of 2019 they will be enlarged on bail on each of them furnishing bail bond of Rs. 10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar subject to the conditions as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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