

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11784 of 2020**

Arising Out of PS. Case No.-237 Year-2019 Thana- BHAGWANPUR District- Kaimur
(Bhabua)

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NARENDRA BAHADUR SINGH Son of Bir Bahadur Singh Resident of
Village-Jaitpur Kala, P.S.-Bhagwanpur, District-Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Pawan Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Bharat Lal, APP
	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 07-12-2021 Heard Mr. Pawan Kumar Singh, learned Advocate for the petitioner and Mr. Bindhyachal Rai for the Co-operative Bank. The State is represented by Mr. Bharat Lal, learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Bhagwanpur P.S. Case No. 237 of 2019 dated 24.12.2019 instituted for the offences under Sections 409, 420, 120(B)/34 of the Indian Penal Code.

It appears from the FIR that Rs. 46,00,000/- (Rupees forty six lacs) in the Bhagwanpur Branch in the Co-operative Bank could not be accounted for. It was therefore alleged that the petitioner who worked as a Peon in such Branch, in conspiracy with the Assistant



and the Branch Manager, had defalcated that amount.

Learned counsel for the petitioner has further submitted that from the internal inquiry report of the bank, which is the basis for lodging of the F.I.R., it becomes very clear that the mismatch in the accounting was because of the Branch Manager himself undertaking the work of the Cashier. So far as the accounting or maintaining the bank ledger is concerned, the petitioner has no role to play as he has only a Peon.

However, from the internal report, it appears that cheque of Rs. 18 lacs and odd was issued to him. What was the reason for issuance of such cheque and from which account is not known.

Be that as it may, after the lodging of this case, the Branch Manager who had applied for anticipatory bail before this Court in Cr. Misc. 3484 of 2020 had given an assurance that he shall return the entire amount so defalcated in few installments.

Learned counsel for the Bank has submitted that out of Rs. 46 lacs, all amount except Rs. 3,45,000/- (Rupees three lacs fourty five thousand) has been paid by the Branch Manager of the Bank.

Learned counsel for the Bank, therefore, submits that in the event of the other accused persons having been granted bail, the bank would have no



objection to the grant of bail to the petitioner as well provided he returns the balance amount of Rs. 3,45,000/-.

Even if such amount is returned to the bank, it has been argued on behalf of the petitioner, that would not absolve the accused persons including the petitioner of the guilt of misappropriation, which can only be decided in a full fledged trial.

Thus allowing the case to continue and asking the petitioner to make good the balance amount would not be justified at this stage.

However, for the purposes of anticipatory bail, taking into account that major part of the defalcated amount has been returned to the Bank, this Court deems it appropriate to direct that in the event of arrest or surrender of the petitioner before the court below within a period of twelve weeks and on furnishing proof of depositing an amount of Rs. 1,50,000/- (Rupees one lacs fifty thousand) in the Bank in question under protest and subject to his rights and liabilities later, he shall be released on bail on furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-V, Kaimur at Bhabua in connection with Bhagwanpur P.S. Case No. 237 of



2019, subject to the conditions as laid down under
Section 438(2) Cr.P.C.

Till such time, no precipitate action shall be
taken against the petitioner.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

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