

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28053 of 2020

Arising Out of PS. Case No.-265 Year-2019 Thana- DUMRA District- Sitamarhi

Devendra Pandey, aged about 32 years, Gender-Male, son of Baidyanath Pandey, resident of Village- Baghari, P.S.- Runisaidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-02-2021

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner apprehends arrest in connection with Dumra PS Case No.265 of 2019 dated 08.07.2019, instituted under Sections 379, 420 of the Indian Penal Code.

3. The allegation against the petitioner is that the informant had handed over her ATM card to him so that he could take out money for performing *shradh* ceremony of her father at the village as she was working outside and after *shradh*, it is alleged that the petitioner handed over ATM card of another person and also that he had withdrawn certain amount,



which was not accounted for.

4. Learned counsel for the petitioner submitted that voluntarily handing over of the ATM card to the petitioner is admitted and the expenses has also been disclosed. It was further submitted that *shradh* was also performed and the petitioner managed all by spending money which clearly indicates that the money was spent for the purpose. However, learned counsel submitted that if the informant has any doubt with regard to the amount being not properly accounted for, it is a matter of sitting together and working out the details and also verifying with regard to the expenses, but a criminal case is abuse of the process of the Court. It was submitted that the petitioner has no criminal antecedent. Learned counsel submitted that even the witnesses, who have supported, are only the close family members.

5. Learned APP, from the case diary, submitted that the petitioner is alleged to have drawn money in excess of what he spent. However, he did not controvert the fact that ATM card was handed over voluntarily by the informant to the petitioner and he was permitted to draw the money for the purpose of *shradh* of her father.

6. Having considered the facts and circumstances of



the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Sitamarhi, in Dumra PS Case No.265 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner shall cooperate with the Court/police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

7. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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