IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43087 of 2021

Arising Out of PS. Case No.-3 Year-2016 Thana- ECONOMIC OFFENCES, BIHAR District- Patna

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RAKESH KUMAR OJHA Son of Late Narbdeshwar Ojha Resident of Village - Road No.1, Loast Boarder, Sri krishna Nagar 800001, at present residing at Professor Colony, K.G. Road, Arrah, P.S.- Arrah Nawada, Distt.- Bhojpur, Pin code - 802301

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Economic offence Unit Bihar, Patna. Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Dhanendra Chaubey
For the Opposite Party/s :	Mr. V.N. P. Sinha, Sr. Adv Mr. Vijay Anand Mr. Shyameshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR

ORAL ORDER

4 26-10-2021 Heard learned counsel for the petitioner, learned APP for the State and learned counsel for Economic Offence Unit.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects, as pointed out by the office when called upon to do so by the office.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406, 420, 465, 466, 467, 471, 120(B) and 34 of the Indian Penal code.

Prosecution case in brief is that the Deputy General Manager of Oriental Bank of Commerce in his letter dated

11.03.2016 addressed to I.G. Economic offences Unit stated that M/s A. Rehman construction and its partners Md. Shakilur Rehman and brother Anisur Rehman were sanctioned cash credit limit of Rs.140 lacs on 08.01.2013 and for the said purpose, equitable mortgage and Masur Gali, Janipur was entered into. It is further alleged that the borrower did not operated the account satisfactorily account is declared and PO 30.06.2015 with total outstanding Rs.3,08,527502/-. Demand notice under SERFEASI Act was issued. Later on Symbolic possession of said property was taken and valuer of the bank namely, Sri Vijay Kumar Singh, informed the bank that property envisaged in the name of Sri Arsila Faridi was sold on 18.08.2015 to Md. Fareed Amanullah and this bank filed application under RTI Act and Circle Officer, Phulwari Sharif Patna vide letter No.1846 dated 04.02.2015 stated that the mutation record vide Mutation Case No.902/4 FY 2012-13 for Khata No.734 Survey Plot no.2526 area 3 katha standing in the name of Shakilur Rehman vide sale deed no.24545 dated 06.09.2012 is fake. It is further stated that Rs. 14 lacs repaid but entire dues was not paid. Even a cheque for 1 crore got dishonoured for which a separate case under Section 138 of Negotiable Instrument Act was filed by the Bank on the basis of this application, Economic Offences P.S. Case No.03/2016 dated 23.04.2016 was registered and investigation started later on Charge Sheet No.19/18 dated 27.08.2018 was submitted against accused persons namely, Shakilur Rehman, Anisur Rehman and Arseela Faridi keeping investigation pending against this petitioners is that he acting in pursuant of conspiracy with other accused gave manipulating legal opinion to bank causing huge loss.

It is submitted on behalf of the petitioner that during investigation, this petitioner explained that he has submitted legal opinion to the Bank, as per documents provided by the Bank regarding title of land and in spite of this fact, the Investigating Authority submitted Memo of Evidence against the petitioner, praying to issue of arrest warrant on the ground that Rent Receipts has not been inquired from the Circle, hence the apprehension of arrest arose before the petitioner. It is also submitted on behalf of the petitioner that he has no criminal antecedent.

Learned counsel for the petitioner further submits that his legal opinion dated 04.01.2013 regarding title of property situated at Mohallah – Janipur for Khata No.734, Plot No.2526 (Part) Area 3 Katha and dated 08.01.2013 regarding Survey Plot

No.1317 Area 10 Dhurs and dated 10.09.2013 regarding Khata No.734 Plot No.2526 (Part) Area 1 ½ Katha to the Bank on the basis of non-Encumbrance Certificate and Mutation order of the property and his Title opinion is not in dispute rather the dispute is Anisur Rahman, Shakilur Rahman and Arsheela Faridi has committed fraud with the Bank by submitting fake revenue record and without informing about prior charge of the property.

Learned counsel for the petitioner also submits that the other accused persons, namely, Shakilur Rahman has been granted bail by learned Addition Sessions Judge, Patna vide order dated 16.02.2017, Anisur Rahman Ansari @ Anisur Rahman has been allowed anticipatory bail vide order dated 17.08.2017 by learned Additional Sessions Judge VIIth, Patna and Arsheela Faridi has also been granted anticipatory bail vide order dated 07.06.2017 by learned Additional Sessions Judge Ist, Patna.

In the facts and circumstances of the case, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Sub Divisional

Judicial Magistrate, Patna, in connection with Economic Offence P.S. Case No.03 of 2016, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Sunil Kumar Panwar, J)

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