IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41025 of 2020

Arising Out of PS. Case No.-339 Year-2016 Thana- CIVIL LINE District- Gaya

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MOTILAL PATWA @ MOTILAL SON OF LATE HULASH RAM PATWA RESIDENT OF MANPUR PATWA TOLI, SEMRAY PARK, MANPUR, PS- BUNIYADGANJ, DISTRICT- GAYA (BIHAR)

... ... Petitioner/s

Versus

1. The State of Bihar through Economic Offence Unit Bihar
2. The Department of Vigilance Through Its Secretary, Bihar, Patna Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agarwal, Sr. Advocate Saket Gupta
For the State	:	Mr. Bharat Lal, APP
For the Economic Offence Unit	:	M/s Vishwanath Prasad Sinha, Sr. Advocate Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

9 08-07-2021 Heard learned senior counsel for the petitioner and learned senior counsel for the Economic Offences Unit through video conferencing.

The petitioner has filed the instant application for grant of regular bail in connection with Special Case No. 23A of 2018 (arising out of Gaya Civil Lines P.S. Case no. 339 of 2016) registered under sections 420, 419, 467, 468, 469, 471 and 120B of the Indian Penal Code.

As per allegation in the F.I.R., it is stated by the informant that he had opened an account in the G.B. Road Branch of the Bank of India at Gaya in the name of his firm

Shiva Agro Enterprises. His two younger brothers had also got accounts opened. The account had been opened for the purpose of taking loan. However, on 7.12.2020 on asking for the details of the account, no information was provided on the pretext of the machine not working. A number of illegal transactions have taken place from the account and ever since learning about the same the informant was living in fear. It was requested that appropriate action be taken as the transactions have taken place in conspiracy with the employees and Manager of the Bank.

It is submitted by learned senior counsel appearing for the petitioner that the allegations as levelled against the petitioner are false and concocted. The petitioner has not committed any offence much less the offence alleged. The allegations are mainly based on suspicion. The petitioner who is a reputed businessman in the city of Gaya has several bank accounts in the Bank of India. Informant, neither in the F.I.R. nor in his further statement disclosed about the involvement of the petitioner. It was only after the case was transferred to and taken over by the Economic Offences Unit that the informant developed his earlier statement and accused the petitioner of having committed the illegal transactions in his account in collusion with the Bank officials. The informant developed his statement and introduced a new fact to the effect that at the time of opening of the account, 15 cheques signed by him were handed over to the Bank officials by way of security. As the accounts were opened on 12.10.2016, handing over of the cheques to the informant on 28.10.2016 is false and baseless. Further, the Bank accounts of the brothers of the petitioner were not loan accounts, as such there was no occasion for handing over of cheque to the Bank officials, by way of security. It is submitted that it is a regular practice in banking transactions that for all withdrawals etc., sms alert is sent on registered mobile number and e-mail ID of the account holders. In the instant case, information with respect to all the transactions were sent on the registered mobile number and e-mail ID of the informant. Inspite of having received the same, the informant having maintained silence shows that he was aware of the transactions. Referring to different paragraphs of the case diary it is submitted that it was subsequent to the Income Tax officials visiting the Bank to make inquiries about the informant's account that the informant has come out with a new story. Referring to serial no.31 in paragraph no.187 of the case diary, it is submitted that the signature of the petitioner does not match. Admittedly no loss has been incurred by the Bank. In other similar matters, the petitioner has been enlarged on bail vide order brought on record in the supplementary affidavit. It is finally submitted that the petitioner is in custody since 20.2.2020 i.e. for 1 year 4 months and investigation in the case has concluded. A number of accused persons have been enlarged on bail in the instant case and as such the petitioner may also be granted bail.

The application for bail is opposed by learned senior counsel appearing for the Economic Offences Unit. It is submitted that in course of investigation, it transpires that initially the loan account was opened by the petitioner in the Bank of India in the name of Shiva Agro Enterprises. On detailed investigation into various transactions carried out in the said account it transpires that large number of transactions of big amounts to the tune of Rs. 50 lacs, Rs.88 lacs, Rs.76.2 lacs, Rs. 23 lacs etc., were deposited in cash in the said account and soon thereafter, the total amount was transferred through RTGS to different accounts which in course of investigation transpires, were fake. On a number of RTGS remittance vouchers, cheque numbers, date etc., were not given. However, on comparison of the signature available on a number of seized documents i.e., RTGS forms the details of which have been given in serial nos.

1 to 39 under paragraph no.288 of the case diary, the signatures matched with the sample signature of the petitioner herein. It is further submitted that although in a number of documents the signatures were found to be of different persons, nevertheless at least in 49 different RTGS forms mentioned in paragraph no.288 of the case diary, the signatures was found to be that of petitioner herein. Amounts were transferred to different fake accounts. It was further submitted that personal loan of Rs.500,000/- each were sanctioned in favour of Shashi Kumar, Rajesh Kumar and Rubi Kumari for purchase of furniture on the basis of fake documents issued by one Dhiraj Jain in the name of his firm. A sum of Rs. 14.25 lacs was credited into the account of the said Dhiraj Jain and later the petitioner gave Rs.5 lacs cash each to the aforesaid three persons. On verification, no shop was found in the name of Dhiraj Jain and the petitioner was instrumental in sanction of the loan. It is submitted that all these transactions took place between the petitioner acting in collusion with the Bank employees to defeat the purpose of demonetization. In the connected case, the bail application of the petitioner was rejected vide order dated 11.6.2020 passed in the Cr. Misc. No. 73052 of 2019. It has come during investigation that more than 32 crores were transferred to

different fake accounts through RTGS and of the 49 documents received 38 contained writing of the petitioner.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the nature of allegation, the material that was transpired in course of investigation and especially the fact that a large number of documents including the RTGS forms etc., in the investigation carried out by the investigating agency it has been confirmed that the same contained the signature/writing of the petitioner, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

(Partha Sarthy, J)

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