

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7291 of 2021

Arising Out of PS. Case No.-558 Year-2019 Thana- SIKARPUR District- West Champaran

Mukesh Kumar, Son of Rambriksh Chaudhary, R/O Village-Kerwa, P.S.-
Kurhani (Turki O.P.), District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Sachida Nand Rai, Advocate
		Mr. B.N. Mishra, Advocate
For the S t a t e	:	Mr. Binod Kumar, APP
For the Informant	:	Mr. Arbind Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 22-07-2021 The matter has been taken up today for consideration
through video conferencing.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

Heard learned Counsel for the petitioner and the
learned APP for the State.

The petitioner seeks bail in connection with
Shikarpur P.S. Case No.558 of 2019 registered for the offence
punishable under Sections 420, 406, 409/34 of the Indian Penal
Code.

The prosecution case alleges that the accused



persons, altogether 21 in number, have taken deposits from several persons, including the informant, and misappropriated the amount under the garb of deposits in Swarn India Multi State Credit Co-operative Society Limited.

Petitioner's counsel submits that the petitioner is the full brother of the C.M.D. of the Society, namely, Anil Chaudhary. By virtue of his relationship, he has been made an accused. The fact that the petitioner has no concern with the Society is evident from Annexure 2, which is a photo copy of the certification issued by the Managing Director that the instant petitioner has no concern with the affairs of the Society. He submits that under such circumstances, he has been made accused in four other cases as per the disclosure made in paragraph 3 of the bail petition.

Further submission is that the ingredients of Sections 420, 406 and 409 have not been made out against the instant petitioner and sweeping allegations have been levelled against all the accused persons. The petitioner is in jail custody since 30.09.2020 in connection with this case.

Learned counsel for the informant has filed a counter affidavit. He has opposed the prayer submitting that the petitioner is accused in at least nine cases and submission that



he is accused in only five cases is misleading. His further submission is that the petitioner has issued cheques as an authorized signatory and therefore, his plea of being disassociated with the Society is untenable.

Learned APP for the State has also opposed the prayer based on the submissions.

Learned counsel for the petitioner submits that four other cases referred to in the counter affidavit were instituted subsequent to the institution of the bail application. Therefore the statement made in the instant bail petition cannot by any stretch of imagination be taken to be a misleading statement or suppression. The cheques which have been annexed by the learned counsel for the informant in his counter affidavit do not form part of the investigation. Further, from bare perusal of the same, it cannot be ascertained whether the cheques have been issued by the instant petitioner (Accused No.3) or Accused No.18, who is his namesake.

Considering the rival submissions, this Court is inclined to allow the petitioner's prayer for bail.

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the



satisfaction of the learned Chief Judicial Magistrate, Bettiah,
District-West Champaran, in connection with Shikarpur P.S.
Case No.558 of 2019, subject to the following conditions:

(i) That one of the bailors will
be a close relative of the petitioner who
will give an affidavit giving genealogy as
to how he is related with the petitioner.
The bailor will also undertake to inform
the court if there is any change in the
address of the petitioner.

(ii) That the petitioner will be
well represented on each date and if he
fails to do so on two consecutive dates,
his bail bond will be liable to be
cancelled.

This Court would expect that the petitioner's counsel
would honour his undertaking in the instant proceedings
regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

