

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13438 of 2021

Arising Out of PS. Case No.-150 Year-2018 Thana- MAHESHKHUNT District- Khagaria

MILIND KUMAR JHA S/o Late Udaykant Jha Resident of Village- Shirnia,
P.O. and P.S.- Gogri, Distt- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Verma, Sr. Adv. Mr. Vikas Ratan Bharti, Adv.
For the State	:	Mr. Satyendra Narayan Singh, APP
For the Informant	:	Mr. Indrajit Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 30-11-2021

Heard learned counsel for the parties.

The petitioner has preferred this application for grant of regular bail in a case registered under sections 420 and 406 of the Indian Penal Code and section 138 of the N.I. Act.

As per the prosecution case, it is stated by the informant that on 30.11.2015, for the purpose of carrying out business, he gave a loan of Rs.8 lacs in cash. However, on asking for the same, the same was not returned inspite of promise by the accused. It is further stated that on further assurance by the accused, the informant took a loan from 52 persons of a total amount of 2.76 crores and gave the same to the accused. Once again this amount was not returned. As such,



the F.I.R..

It is submitted by learned senior counsel appearing for the petitioner that the allegations as levelled in the F.I.R are false and concocted. The petitioner has been falsely implicated in the case. From perusal of the F.I.R. itself, it would transpire that the dispute is purely civil in nature and the appropriate remedy for the informant would be a civil suit. No details of the 52 different persons have been given by the informant in the F.I.R. The case is primarily under section 138 of the N.I.Act and relying on the judgment in the case reported in G. Sagar Suri & Anr. vs. State of U.P. and Ors, (2002) 2 SCC 636, it is submitted that the allegations under sections 406 and 420 of the Indian Penal Code lacking in detail would amount to an abuse of the process of the Court. It is submitted that for an alleged occurrence said to have been taken place in the year 2015, the F.I.R. was registered after a delay of three years. Against the sentence of upto two years under the N.I. Act, the petitioner has remained in custody since 12.8.2020 i.e. for over 1 year 3 months.

The application for bail is opposed by learned A.P.P. for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that from perusal



of the F.I.R. itself, it would transpire that direct allegation has been made against the petitioner which is supported from the documents brought on record in the counter-affidavit filed in the instant case on behalf of the informant. The petitioner is a habitual offender having been accused in four similar cases, details of which have been given in paragraph no. 5 of the said counter-affidavit.

In response, learned senior counsel appearing for the petitioner disputes the signature in the documents brought on record in the counter-affidavit filed on behalf of the informant.

Having heard learned counsel for the parties and taking into consideration the nature of allegations together with the petitioner having remained in custody for over 1 year 3 months, the Court directs the petitioner to be enlarged on bail in connection with Maheshkhunt P.S. Case no.150 of 2018 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria.

It is further directed that the petitioner shall cooperate in the case/trial in the learned court below and in case the learned trial court is of the opinion that the case is being delayed



due to non-cooperation on part of the petitioner, the learned trial court may cancel the bail bond of the petitioner and take him into custody till conclusion of the trial.

(Partha Sarthy, J)

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