IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9332 of 2021

Arising Out of PS. Case No.-644 Year-2019 Thana- BETTIAH CITY District- West Champaran

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Mukesh Kumar, aged about 32 years (M), Son of Rambriksh Chaudhary, Resident of Village Kerwa, P.S. Kurhani (Turki O.P.), District Muzaffarpur.

... ... Petitioner

Versus

The State of Bihar.

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Sachida Nand Rai, Advocate
For the State	:	Mr. S.M. Rehman, APP
for the E.O.U.	:	Mr. V.N.P. Sinha, Senior Advocate Mr. Vijay Anand, Advocate Ms. Soni Srivastava, Advocate
For the Informant	:	Mr. Arbind Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

CAV ORDER

6 8-10-2021 Heard Mr. Sachida Nand Rai, learned counsel for the petitioner, Mr. S.M. Rehman, learned Additional Public Prosecutor for the State, Mr. V.N.P. Sinha, learned senior counsel assisted by Mr. Vijay Anand and Ms. Soni Srivastava, learned counsel for the Economic Offence Unit and Mr. Arbind Kumar Singh, learned counsel appearing on behalf of the informant.

The petitioner seeks bail in Bettiah Town P.S. Case No.644 of 2019, registered for the offences punishable under Sections 406, 420, 467, 468, 471, 472, 120(B) and 34 of the Indian Penal Code and Bihar Prohibition of Interest of Depositors Act, 190/2013.

The prosecution case in brief is that when the informant, a Sub-Inspector of Police, along with other police personnel went near the house of Madan Mohan Giri, situated at Supriya Road Cinema, he found that some persons were quarreling themselves. When he inquired about the reasons for quarrel, one Shamshad Alam said that there is a company, namely, Swarn India Multi State Credit Co-operative Society Limited and people deposited their money in the said company. But the company is not giving maturity amount and misappropriated the money. It is further alleged that the CMD of the company, namely, Anil Kumar Chaudhary along with Sonu Kumar, Mukesh Kumar, Prabhat Ranjan, Raj Kishore Rai, Manvendra Singh, Ajay Kumar, Amarjeet Kumar, Prabhash Kumar Thakur, Satish Kumar, Nisha Kumari, Rubi Kumar and Anil Kumar, who are posted in the company on different posts, have embezzled the huge amount of the depositors.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. The petitioner is made accused in the case merely on the basis of disclosure made by Chandra Mohan Kumar and except that there is no material to show the involvement of the petitioner in the alleged defalcation of money. In fact, the petitioner is made accused in the case because he is the full brother of Anil Chaudhary @ Anil Kumar Chaudhary, the CMD of Swarn India

Multi State Credit Co-operative Society Limited. It is further submitted that except hearsay material, there is no cogent material against the petitioner. The petitioner has got eight criminal antecedents of the similar nature mentioned at para 3 of the bail petition and in the supplementary affidavit filed by the petitioner. It is further submitted that the petitioner has been granted bail by a different co-ordinate Bench of this Court in a different case registered for the similar offence, arising out of Shikarpur P.S. Case No.558 of 2019 vide order dated 22.07.2021 passed in Cr. Misc. No.7291 of 2021. It is also submitted that the petitioner is the full brother of the CMD 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 certificate issued by the Managing Director showing that the instant petitioner has no concern with the affairs of the Society. It is lastly submitted that the petitioner is in custody since 30.09.2020.

Mr. V.N.P. Sinha, learned senior counsel assisted by Mr. Vijay Anand and Ms. Soni Srivastava, learned counsel for the Economic Offence Unit, Mr. S.M. Rehman, learned Additional Public Prosecutor for the State and Mr. Arbind Kumar Singh, learned counsel for the informant vehemently opposed the prayer for bail of the petitioner.

Mr. V.N.P. Sinha, learned senior counsel has informed this Court that out of ten cases, six cases have been transferred to the Economic Offence Unit and the Economic Offence Unit is investigating the case. Learned senior counsel further submits that the prayer for bail of the petitioner was rejected by a different co-ordinate Bench of this Court in a case, arising out of Bettiah Town P.S. Case No.518 of 2020 vide order dated 24.08.2021, passed in Cr. Misc. No.8776 of 2021, in which a supplementary affidavit has been filed by the petitioner and a photocopy of the bye-laws has been brought on record as Annexure-3 but perusal thereof shows that care has been taken while filing this document not to show the name of the persons who are the founder of the Society. Name of the persons who have formed the Society have not been disclosed. This Court further finds that very carefully statement has been made in paragraph-3 of the affidavit that the petitioner is not holding any post in the branch of Swarn India Multi State Credit Co-operative Society Limited situated at Bettiah where the occurrence has taken place. The submissions in this paragraph are confined in respect of the association of the petitioner in the functioning of the said branch. In paragraph-5 of the supplementary affidavit now it is stated that the petitioner is a member of the Society. Earlier his stand was that he had no concern with the Society.

Learned counsel for the informant submits that 18 Branches of Swarn India Multi State Credit Co-operative Society Limited were opened at different places of North Bihar and at other places and more than lacs people and poor farmers got deposited their hard money in this Bank and, as such, petitioner and others have grabbed crores of rupees of poor farmers as well as others. Learned counsel for the informant further submits that despite several requests, no money was returned back to the depositors. The poor farmers/depositors made complaint to the superior authority as well as the Director General of Police, Bihar, Patna and brought into notice of such rackets. Thereafter the Director General of Police, Bihar, Patna handed over the matter to Economic Offence Unit, Bihar, Patna for further investigation.

Considering the facts and circumstances of the case, it appears that the allegations against the petitioner is that he along with the Managing Director who happens to be the own brother of the petitioner and the other persons named in the FIR have misappropriated the amount belonging to the informant and thereafter it has transpired that huge amount have been collected from public at large and thereafter they have been duped, the offices of the company were closed and the people were not paid their maturity amount, the brother of the petitioner is still absconding and finding the gravity of the offences alleged six cases have been transferred to the Economic Offence Unit which are still under investigation, the petitioner has not disclosed the complete facts relating to his stands in the society despite the order of this Court and initially he made a statement that he had no concern with the Society but later on he has come on affidavit that he is a member of the Society.

Having considered the facts and circumstances of the case, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is rejected.

However, the trial court is directed to expedite the trial and conclude the same within a period of one year. If the trial is not concluded within a period of one year for no reason attributable to the petitioner, he may renew his prayer for bail.

The application stands dismissed.

(Anjani Kumar Sharan, J)

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