IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15632 of 2020

Arising Out of PS. Case No.-9 Year-2019 Thana- GANDHIMAIDAN District- Patna

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DHEERAJ KUMAR SINGH @ DHIRAJ KUMAR SINGH Son of Murli Manohar Singh Resident of Mohalla - Alkapuri, Gardanibagh, P.S.- Gardanibagh, Distt - Patna.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the petitioner : Mr. Sanjay Kumar, Advocate

For the State : Mr. Umesh Lal Verma, Advocate
For the Informant : Mr. Ganpati Trivedi, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

21 28-02-2022 Heard learned Counsel for the petitioner, learned APP for the State and learned Senior Counsel for the informant.

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

As per the prosecution case, the petitioner was appointed as Accountant in the company in the year 2013. He started misusing the cheque book of the company and started to transfer money of the company in different accounts of his relatives. The informant learnt about the same on receiving a phone call on 27.12.2015 from the Bank as five cheques were presented for withdrawal of Rs. 7,72,000/-. On being confronted the petitioner

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accepted to have committed the theft and submitted that he would return the entire amount to the company. It is further stated that on suspicion being raised, the enquiries were made and it transpired that he had been transferring different amounts in his personal account in the Federal Bank, S.P. Verma Road as also in the State Bank of India, Anishabad, Patna. Once again he stated through whatsapp messages that he would return the amount to the company. On further inquiry by the company it transpired that a total amount to the tune of Rs. 80 lacs had been illegally transferred by forged cheques by the petitioner. The informant states that the inquiry is not complete and the amount may go up further. Amounts were transferred in the account of his wife in the State Bank of India, Gardanibagh, Patna and some in the accounts of Diwakar Lal and Satish Singh. All this were done with the forged signature in conspiracy with the bank officials. The petitioner and his wife paid a sum of Rs. 19,00,052/- to the company in it's account, however even thereafter a balance sum of Rs. 61 lacs remains to be refunded by the petitioner to the company.

It is submitted by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. There is inordinate delay in filing of the written complaint

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and registering the FIR. It is submitted that it is surprising that as per allegation the petitioner had been withdrawing amounts from the account of the company from 2013 itself but neither the informant who is the Managing Director nor the Chartered Accountant detected the same or raised suspicion. The allegations are false and concocted. The cheques were issued by the informant herself. In fact it was the informant who defalcated the amount and on the other parties coming to know about the same, the petitioner has been made a scapegoat and the instant case registered. Even as per the allegation in the FIR, with recovery of Rs. 19 lacs (approx) from the petitioner against the total alleged misappropriated amount of Rs. 80 lacs, the allegation remains only with respect to Rs. 61 lacs which is also not correct. The petitioner is in custody since 15.8.2019 and investigation in the case has concluded.

The application for bail is opposed by learned APP for the State and learned Senior Counsel for the informant. It is submitted by learned Senior Counsel for the informant that besides there being direct allegation against the petitioner, it had been stated in the FIR itself that the defalcation of a total amount of Rs. 80 lacs had been discovered and it was expected that the said amount may go further up. Referring to paragraph

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no. 28 of the case diary it is submitted that a total amount of Rs. 1.72 crores have been withdrawn against which only a sum of Rs. 19 lacs has been returned.

By order dated 6.3.2020 passed in the instant case the petitioner was enlarged on provisional bail and the matter was referred to the Mediation Centre, Patna High Court for mediation. The matter could not be settled in mediation. It was submitted by learned Senior Counsel appearing for the informant that the petitioner should at least pay the agreed amount of Rs. 61 lacs. In response it was submitted by learned counsel for the petitioner that he is agreeable to pay a maximum amount of Rs. 48 lacs.

Having heard learned counsel for the parties and on perusal of the material that has transpired in course of investigation specially paragraph nos. 28 and 39 of the case diary it transpires that the different amounts were transferred to accounts of the petitioner in State Bank of India, Anishabad Branch and Federal Bank, account of his wife in State Bank of India, Gardanibagh Branch, account of his employee Sanjay Kumar in Federal Bank, account of his friend Diwakar Lal in Federal Bank as also account of his brother Satish Singh in Central Bank of India besides other accounts. Paragraph 39 of

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the case diary mentions about a total amount of Rs. 1.72 crores (approx) to having been defalcated by the petitioner.

In view of the facts and circumstances of the case, the allegations in the FIR together with the material that has transpired in course of investigation, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

The petitioner who was enlarged on provisional bail by the above mentioned order dated 6.3.2020 is directed to surrender in the learned Court below within a period of two weeks from today.

(Partha Sarthy, J)

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