IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18177 of 2022

Arising Out of PS. Case No.-12 Year-2022 Thana- AURANGABAD TOWN District-Aurangabad

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Vinay Sah @ Vinay Shah Son Of Late Pal Sah R/O - Vikash Nagar, Kurjee Kothia, Nala Par, Kurjee, Phulwari, District- Patna, Presently Posted As Branch Manager, Hdfc. Bank Ltd., M.G.Road, Pushkar Complex, Aurangabad

... ... Petitioner/s

Versus

1. The State of Bihar.
2. Shobha Kunwar, wife of Late Mukesh Kumar Singh, P.S. Muffasil, village & P.O. Kanbaderi, District Aurangabad.

... ... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Girijish Kumar, Advocate
For the Opposite Party/s : Mr. Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

C.A.V. ORDER

4 25-11-2022 Heard learned counsel for the parties.

Learned counsel for the petitioners undertakes to remove the defects within four weeks. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner apprehends his arrest in a case registered for the offence punishable under section 406, 406, 468 and 34 of the Indian Penal Code.

The prosecution story, in brief, is that the

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informant namely, Shobha Kunwar, and her sister-in-law are holding account no.50100021876412 and 50100022072700 respectively with the HDFC Bank, Aurangabad. The petitioner Vinay Shah (Bank Manager), one Kuntal Kumar Talapatra (Assistant Manager) and Faiz Ahmad (an employee of Life Insurance) advised the informant and her sister-in-law to invest their savings into mutual funds and demanded blank checks with signature from them. As per their instructions, the informant and her sister-in-law provided the same. They were told by the accused persons that they will receive a paper regarding investment in mutual fund within 4-5 days but they did not receive anything. On 16.04.2021 they visited the said bank to inquire about their investment in mutual fund where they came to know that Rs. 4 lacs from her account and Rs.6 lacs from the account of her sister-in-law has been withdrawn fraudulently. It is alleged by the informant that she has given application to the Branch Manager, HDFC Bank

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and Regional Manager and mentioned the incidence in detail but despite knowing about the alleged fraudulent withdrawal, neither FIR has been lodged nor departmental action has been taken nor money has been returned to them.

It is submitted by learned counsel for the petitioner that petitioner is quite innocent and has committed no offence. He has been falsely implicated in this case with an ulterior motive. No such occurrence, in the manner as alleged, has ever taken place. He submits that the informant and her sister-in-law have themselves withdrawn the money of Rs.4 lakhs and Rs.6 lakhs respectively by visiting the HDFC Bank. It is further stated that the informant and her sister-in-law must have received the message on the registered mobile number regarding the said alleged transactions but they have not made any complaint immediately regarding any said alleged fraudulent transactions. There is inordinate and abnormal delay of about one year in lodging the

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present FIR without assigning any plausible and cogent reason for the said delay, which creates serious doubt about the prosecution case. The said alleged cheques were not account payee rather self cheque which can only be withdrawn when account holder personally visits the bank. The signature of the informant and Manju Devi was verified from the records and the signatures were found to be genuine and there is no forgery committed in the signature signed by both of them behind the cheque. It is further stated that it is admitted by the informant that the said cheque nos.952162 of Rs.2 lakhs and cheque no.952156 of Rs.3 lakh issued in the name of the informant and Manju Devi, the said cheques were of SBI, Ramgarh and were issued by the Sandha Rani Talpatra for discharge of liability, who is the mother of Kuntal Kumar Talpatra, which were dishonored on 11.10.2021 due to reason “funds insufficient”. Thereafter, legal notice was sent to Sandha Rani Talpatra, who is signatory of the said dishonor cheques

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which is part of this FIR. In the said legal notice, it is clearly mentioned that the cheques were issued by the Sandha Rani Talpatra for discharge of her liability regarding any loan or advance taken from the informant and Manju Devi. It is stated that if the informant or anyone developed any financial or pecuniary relationship with relative of any of the Bank officials in her personal capacity then neither Bank is responsible nor the petitioner. Now, the said Kuntal Kumar Talpatra has left the HDFC Bank and he is no more in the service of the HDFC Bank Ltd. The informant and her sister-in-law themselves withdrawn the money from the Bank account and keep silent for one year and thereafter created false story to extract money from the Bank officials but they failed to succeed in their ill motive and falsely implicated the petitioner in the present case. It is lastly submitted that there was no fraud or illegality committed by the petitioner. Admittedly, neither the petitioner received the alleged cheques nor withdrawn any money nor

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committed any illegality, therefore, no offence under different sections of the Indian Penal Code are attracted in the present case against the petitioner. Petitioner has no criminal antecedent as mentioned in para-3 of this application.

Per contra, learned APP for the State assisted by learned counsel for the opposite party no.2 vehemently opposing the prayer for bail submitted that the petitioner in association of other bank officials overlooked the procedure laid down for clearing of the cheques.

Having regard to the facts and circumstances of the case, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending/successor Court

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in connection with Aurangabad (Town) P.S. Case No. 12 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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