IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36504 of 2021

Arising Out of PS. Case No.-2 Year-2021 Thana- GANDHIMAIDAN District- Patna

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SAGAR SUMAN S/O SHRI UPENDRA KUMAR SRIVASTAVA Resident of M.K. 07, Vijay Singh Yadav Path, Near Holi Mission School, Vidyut Nagar, Adampur, P.S.- Danapur, District- Patna- 801 105, Bihar

... ... Petitioner/s

Versus

THE STATE OF BIHAR

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Adv.
Mr. Kumar Ravish
For the Opposite Party/s : Mr. APP
For the Informant Mr. Dayanand Singh
For the EOU Mr. V.N.P. Sinha, Sr. Adv.
Ms. Soni Srivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR

ORAL ORDER

8 23-11-2022 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks pre-arrest bail in connection with Gandhi Maidan P.S.Case No. 2 of 2021 registered under Sections 419, 420, 4567, 468, 471 of the Indian Penal Code.

As per FIR, allegation against the petitioner is that he was involved in illegal transfer of money from the government account held with Kotak Mahindra Bank, Exhibition Road Branch, Patna. Co-accused Shubhak Gupta was apprehended in Exhibition Road Branch of Kotak Mahindra Bank with three forged RTGS forms including forged letters and fake signatures of the authorized signatory of the bank account, namely, Pankaj

Patel, District Land Acquisition Officer for transfer of Rs. 11,73,12,721/- to the account of B.S. Enterprises held with ICICI Bank, Boaring Road Branch, Patna. In the confessional statement co-accused Shubham Kumar Gupta disclosed that Saurabh, Sagar, Amrit and Siddharth are his accomplice and Saurabh had opened office in Patna with them where he also used to go. Shubham Kumar Gupta further reveals that in December 2020 Saurabh had given a cheque to deposit in Kotak Mahindra Bank, Boaring Road Branch with Aadhar Card of Pankaj Patel and for the same he was being paid. On 02.01.2021 Amrit asked him to go to Exhibition Road Branch for RTGS of Rs.11,73,12,721/- and Siddharth gave him three RTGS forms and he also talked to Sagar and Saurabh on phone asking them to secure his share of money. Further allegation is that on RTGS forms there was a written note stating "OK to process" with fake signatures of the informant. It is also alleged that no cheque was accompanied with the said RTGS forms as also signatures on the RTGS forms and letters were not matching with those of the authorized signatory in the bank records. On query, Sri Pankaj Patel, District Land Acquisition Officer confirmed that no such request for transfer of money was issued by him and the document submitted to the bank are fake.

Learned counsel for the petitioner has submitted that petitioner is not named in the FIR. His name transpired on the confessional statement of co-accused Subham Gupta made before the police which has got no evidentiary value in the eye of law and merely on suspicion petitioner has been dragged in the present case. It is further submitted that not a single penny has been transferred in the bank account of the petitioner or his family members. It is further submitted that there is no actual commission of offence as the sole named accused was apprehended when he was trying to transfer money from government account to the Bank account of M/s B.S. Enterprises on the basis of forged documents and without any cheque. During investigation, it has transpired that the man behind the entire commission of offence was one Sumit Kumar, who is the Branch Manager of Boring Road Branch of Kotak Mahindra Bank. It is further submitted that petitioner was employed as an Accountant in M/s Blue Fire Innovation and co-accused Shubham Gupta, who was also working in the same firm, was terminated from service and because of that reason he intentionally dragged the name of the petitioner in the present case. Further submission is that the petitioner is a man of means and there is no chance of his absconding or tampering with the evidence.

A counter affidavit has been filed on behalf of the informant Kotak Mahindra Bank wherein it is stated that in the internal investigation of the Bank, active participation of the petitioner has been found in illegal transfer of an amount of Rs.31,92,70,129/- from the account of NHAI-cum-CALA account. It is further contended that the investigation with respect to the petitioner is still going on and, thus, the petitioner does not deserve anticipatory bail.

A supplementary counter affidavit has also been filed on behalf of the informant stating that the investigation of the case has been taken over by the Economic Offences Unit, Patna.

A counter affidavit has also been filed on behalf of Economic Offences Unit. Learned counsel for the Economic Offences Unit vehemently opposed the prayer for anticipatory bail of the petitioner and stated that petitioner’s active participation in the alleged crime cannot be ruled out and investigation is going on.

Considering the submissions made by the learned counsel for the parties and the fact that the petitioner is not named in the FIR and his name transpired in the confessional statement of the co-accused made before the police and nothing has been found against the petitioner regarding his complicity, in the event of arrest or surrender before the court below within four weeks from today, the petitioner is directed to be released on bail 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 Additional Chief Judicial Magistrate-XIV, Patna in connection with Gandhi Maidan P.S. Case No 2 of 2021 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sunil Kumar Panwar, J)

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