

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55950 of 2021

Arising Out of PS. Case No.-125 Year-2021 Thana- SAMASTIPUR District- Samastipur

DIWAKAR KUMAR SINGH @ DIWAKAR SINGH Son of Sri Ashok
Kumar Singh Resident of Mohalla - DRM Chowk, Near Kali Mandir, P.S.-
Samastipur Town, District - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Thakur, Advocate
For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP
For the Informant : Mr. Ajay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 02-03-2022 Heard learned counsel for the petitioner, Shri Ajay
Kumar Pandey, learned counsel for the informant and Shri
Pawan Kumar Chaurasia, learned A.P.P. for the State.

The petitioner seeks bail in connection with Nagar
(Town) P.S. Case No. 125 of 2021 instituted for the offences
under Sections 409, 420, 120(B) and 34 of the Indian Penal
Code.

Learned counsel for the petitioner submits that the
petitioner is in custody since 24.06.2021, is a person with clean
antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that the
informant alleges that he is posted as Branch Manager, CMS,
Info System, Begusarai, further the CMS, Info System works as



a cash replenishment agency all over India and the company's primary function is to load cash in ATM of private as well as government bank and also to repair the ATM in the event if there is any fault in the machine. It is further alleged that for performing the aforesaid work, two custodians were appointed at Samastipur location, namely, Md. Islam and Ashish Kumar Anurag, both the custodians used to withdraw cash from the bank and load in the ATM of respective banks. Further in between 08.06.2021 to 17.06.2021, they withdrew cash from the bank but the cash was not loaded in the ATM as detailed in the F.I.R. leading to defalcation of amount of Rs.2,70,28,000/-, Further it is alleged that since the petitioner was overall In-charge of the location at Samastipur, as such, his connivance in the occurrence appears probable. Further, the informant filed a supplementary petition before the S.H.O. of the concerned police station alleging that after audit the total amount misappropriated was Rs.3,26,50,105/-.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the petitioner being In-charge of Samastipur location was roped in this case on the ground that being the In-charge he must have connived with the aforesaid two custodians



named in the F.I.R. Learned counsel further submits that the entire allegation hinges around suspicion when the custodians Md. Islam and Ashish Kumar Anurag were given the duty to load the ATM with cash which they used to withdraw as per banking norms from the concerned banks. Learned counsel further submits that the petitioner was earlier working at Kolkata and from there he was transferred to Samastipur in the month of November 2005 and he was assigned duty to perform first line maintenance and other routine maintenance and a communication of the same was also sent to SBI by the management as would be evident from Annexure 2 to the bail application. It is further submitted that although petitioner has got no concern with the deposit of money but in order to falsely implicate the petitioner in the F.I.R., some charts of the concerned banks have been annexed and from perusal of the same it would manifest that the amount withdrawn from the ATM and the amount supplied by the bank does not tally. Further it is submitted that Md. Islam in his confessional statement has stated that the petitioner earlier had done work of not depositing the entire amount and subsequently used to deposit the same after using the said amount. Learned counsel submits that confession before police is not admissible in law.



Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner and learned counsel for the informant submits that petitioner being the In-charge of the location at Samastipur had responsibility towards the custodians to ensure that the money is deposited in the ATMs which was withdrawn from the bank to be deposited in the ATMs.

Considering the fact that the petitioner is in custody, is a person with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the submissions of the learned counsel for the petitioner, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Samastipur in connection with Nagar (Town) P.S. Case No. 125 of 2021.

(Satyavrat Verma, J)

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