IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57802 of 2021

Arising Out of PS. Case No.-97 Year-2018 Thana- SHEOHAR District- Sheohar

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UMESH KUMAR Son of Late Bir Bahadur Ray Resident of Village - Kushhar, P.S. - Tariyani, District - Sheohar (Bihar).

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sunil Kumar Singh Son of Late Rajendra Prasad Singh Presently posted as Branch Manager, Punjab National Bank, Sheohar Branch, District - Sheohar (Bihar).

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate.
For the Opposite Party/s	:	Mr. Sanjay Kumar Singh, APP.
For the Informant	:	Mr. Mritunjay Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 08-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned senior counsel for the petitioner, Mr. Mritunjay Kumar, learned counsel for the informant as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Sheohar P. S. Case No. 97 of 2018 registered for the offences punishable under Sections 406 and

420 of the Indian Penal Code.

The prosecution case is based on a written report alleging therein that the petitioner, who happens to be proprietor of Jai Maa Bhawaqni Enterprises availed the cash credit of Rs. 20 Lakh on 09.02.2011 and in order to secure the cash credit facilities, he has created Equitable Mortgage by depositing the title deeds of the property and hypothecation of Tractor lying in his show-room. It is also alleged that thereafter, the limit was enhanced as Rs. 45,00,000/- on 30.09.2013, however, later on, the account has become NPA on 01.05.2017 and in the meantime, the matter has been taken up with the petitioner but he has not paid the outstanding dues amount, and fraudulently sold the secured assets charge and in this way, he defrauded the bank to the extent of Rs. 49,82,93,172/- by diverting the bank’s fund with mala fide intention causing loss to the bank.

At the outset, learned senior counsel appearing on behalf of the petitioner submitted that so far the outstanding dues of the bank is concerned, due to covid-19 pandemic and subsequent lock-down, the petitioner could not make payment of further instalment in time, which resulted into NPA of the account, however, now the petitioner shown his willingness that he is ready to pay the balance amount and the outstanding dues whatsoever remained with the bank after getting the statement of account from the bank. It is next submitted that there is certain laches on the part of the bank and because of present financial matter, he is in custody since 19.05.2021. It is further submitted that now he is ready to pay Rs. 50 Lakh, which is said to have been outstanding as per the F.I.R.. It is also submitted that he is ready to deposit Rs. 5 Lakh within three weeks from today and further Rs. 45 Lakh would be paid in nine monthly equal instalments of Rs. 5 Lakh.

On the other hand, learned counsel for the informant opposes the bail application and submits that at present there is outstanding dues of Rs. 1,00,63,000/- lying against the petitioner and apart from the present facts of the case, the petitioner is habitual offender as is evident from paragraph 3 of the application.

Regard being had to the submissions made on behalf of the parties and considering the fact that a request has been made on behalf of the petitioner that he is ready to pay the alleged outstanding dues as has been mentioned in the F.I.R., let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sheohar in connection with Sheohar P. S. Case No. 97 of 2018, subject to the condition that one of the bailors will be the close relative of the petitioner further in terms of the undertaking made by the petitioner that he will deposit Rs. 5 Lakh within two weeks from today and the rest amount shall be paid in nine monthly equal installment of Rs. 5 Lakh. The entire payment shall be made by demand draft in the name of the bank.

However, if there would be breach of undertaking given before this court, the bank would be at liberty to file application for cancellation of his bail.

(Harish Kumar, J)

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