

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58827 of 2021

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

MD. ISLAM Son of Md. Habib Resident of Village- Andaha Bhagwanpur
Kamla, P.S.- Ujiarpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bindhyakeshari Kumar, Sr. Advocate
For the Opposite Party/s	:	Mr.Lalan Kumar, APP
For the Informant	:	Mr.Ajay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 17-05-2022 Heard learned senior counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

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

Learned senior 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.

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 the ATM of
private as well as government bank and also to repair the ATM 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, Ashish Kumar Anurag and the petitioner, 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 an amount of Rs.2,70,28,000/-, further it is alleged that since Diwakar Kumar Singh 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 senior counsel for the petitioner submits that co-accused Diwakar Kumar Singh has been granted bail vide order dated 02.03.2022 in Cr. Misc. No. 55950 of 2021, it is further submitted that the police during the course of investigation arrested the petitioner and the petitioner in his confessional statement stated that earlier he had done work of not depositing the entire amount and subsequently used to deposit the same after using the said amount. It is further submitted that in his confessional statement the petitioner also acknowledged



that he had got land invested in the name of his brother and had even given loan to a friend in Hyderabad, it is thus submitted that whatever confession was made that required an investigation and mere confessional statement before the police is not admissible in law, further during the course of investigation nothing has come in the case diary which can even remotely suggest that the petitioner had purchased land or invested money on behalf of his brother or had given loan as there is absolutely no investigation on such issue by the police.

Learned counsel for the informant and learned A.P.P. for the State vehemently oppose the prayer for bail of the petitioner.

At this stage, the learned senior counsel for the petitioner seeks permission to withdraw the present bail application.

Permission is accorded, with liberty to the petitioner to renew his prayer for bail after framing of charge.

Accordingly, the present bail application is dismissed as withdrawn.

(Satyavrat Verma, J)

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