IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60856 of 2021

Arising Out of PS. Case No.-13 Year-2020 Thana- ATHMALGOLA District- Patna

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NIRMALA SINHA Wife of Late Badri Vishal Sharma Resident of Village - Sabnima, P.S.- Athmalgola, District - Patna

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
For the Informant : Mr., Satya Prakash, Adv.
For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 31-03-2022 Heard the learned counsel for the petitioner, Sri Ajay Kumar Thakur and the learned APP for the State, Sri Navin Kumar Pandey, as also the learned counsel for the informant, Sri Satya Prakash.

The petitioner seeks regular bail in connection with Athmalgola P.S. Case No. 13/2020, registered for the offence punishable under Sections 406 and 420 of the Indian Penal Code.

The allegation is regarding the informant having taken a loan of a sum of Rs. 7,50,000/-

from the SBI Branch, Sabnima, P.S.-Athmal Gola, District-Patna and the petitioner is stated to be a guarantor in the said transaction for which she had submitted her aadhar card, pan card etc. It is further alleged that after the informant had taken the loan, he had handed over the same to the petitioner, however, upon urging her to return the same back to the informant, the petitioner refused to return the loan back to the informant.

The learned counsel for the petitioner, Sri Ajay Kumar Thakur, has submitted that the petitioner is innocent, she has been falsely implicated in the present case, she is having a clean antecedent and she is languishing in custody since 13.8.2021. The learned counsel for the petitioner has referred to paragraph no. 12 of the present petition to submit that the learned Additional District and Sessions Judge V, Barh had called for a report from the SBI, Sabnima Branch, in pursuance whereof, the Branch Manager of the said Bank had submitted a report stating therein that the personal loan was sanctioned to the informant on 2.8.2018 and the same has been closed by the informant on 7.11.2019 and the petitioner was a witness to the said loan. It is further submitted that there is no proof of any amount having been handed over by the informant to the petitioner or to the effect that the petitioner had withdrawn any amount from the said account of the informant, hence, the petitioner is obviously not having any complicity in the matter.

Per contra, the learned APP for the State, Sri Navin Kumar Pandey and the learned counsel for the informant, Sri Satya Prakash, have vehemently opposed the prayer for bail. The learned counsel for the informant has submitted that the petitioner has taken money from the informant, however, the same has not yet been returned. Upon a query being put by this Court as to whether any document has been executed in between the petitioner and the informant regarding the money transaction, the answer is in the negative.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the fact that it is the categorical averment of the petitioner that the loan amount has already stood repaid, apart from the fact that admittedly no written document has been executed in between the petitioner and the informant with regard to any money being lent by the informant to the petitioner, though I deem it fit and proper to admit the petitioner to the privilege of bail, but subject to verification by the learned court below regarding the fact as to whether the loan amount has been repaid or not.

Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Barh in connection with Athmalgola P.S.

Case No. 13 of 2020, subject to verification of the aforesaid fact regarding repayment of the loan amount in question, by the learned court below.

(Mohit Kumar Shah, J)

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