

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68415 of 2021

Arising Out of PS. Case No.-440 Year-2021 Thana- WAJIRGANJ District- Gaya

1. Chandan Kumar, Son of Vijay Kumar Saw, Resident of Village - Kajur, P.S.- Atri, Distt.- Gaya.
2. Dinesh Kumar, Son of Mevalal Saw, Resident of Village - Baramree, P.S.- Sadar, Distt.- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kunal Tiwary, Advocate

For the Opposite Party/s : Mrs. Suman Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 13-07-2022 Heard learned counsel for the petitioners and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Wazirganj P.S. Case No. 440 of 2021 registered for the alleged offence under Sections 467, 468, 471, 406, 420, 120B of the Indian Penal Code and Section 66 of Information Technology Act.

The prosecution case is that the petitioners were apprehended from an ATM Kiosk in suspicious condition and



from their possession, a number of ATM cards, documents of finance company, cheque books, ATM Scanner Machine, ATM writer machine, Laptop etc. were recovered. Allegedly, the petitioners used to clone ATM cards and withdraw the money from the accounts of others. During investigation, it also came to light that the petitioners were involved in financial fraud as well.

The learned counsel for the petitioners submits that there is nothing in the FIR to reveal any crime or offence being committed by the petitioners. The petitioners had gone to withdraw cash from the ATM for some *Shradh* ceremony taking place in the house of petitioner no.1. Though the allegations of cloning of ATM Card and withdrawing of cash by using cloned ATM card have been alleged, but no complaint has been made in this regard by the customers/victims. Similarly, the allegation of making forged website on pretext of arranging loan is not supported by any hard evidence as none have come forward to press this charge against the petitioners. The petitioners are in custody since 28.09.2021 and are having clean antecedent.

Learned APP has opposed the prayer for bail submitting that in paragraphs 32 and 33 of the case diary, the victims have specifically made complaint against the petitioners



that they were asked to transfer money for getting some loan and though they transferred the money, but did not get any loan as assured by the petitioners.

Perused the records.

Having regard to the submissions made hereinabove and considering the nature of allegation against the petitioners and the material collected during investigation which could not be said to be cogent and explicit about the crimes committed by the petitioners and further considering their period of custody, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Wazirganj P.S. Case No.440 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below.
- (iii) The petitioners will not indulge in similar nature of cases.
- (iv) In case of absence for three consecutive dates or in violation of the terms of the bail, the



bail bonds of the petitioners will be liable to be
cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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