IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1604 of 2022

Arising Out of PS. Case No.-438 Year-2017 Thana- BHAGALPUR KOTWALI District- Bhagalpur

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Arun Das @ Akun Das, Son of Late Sindhu Das @ Sudho Das, Resident of Village - Muktapur, P.S. - Goradih, District – Bhagalpur. .. ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate
For the Opposite Party/s : Mr. Choubey Jawahar, APP
For the Informant : Mr. Manoj Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

3 19-10-2022 Heard learned counsel for the petitioner and learned APP for the State as well as learned counsel for the informant.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

In the present case, the petitioner seeks bail in connection with Kotwali (Tilakmanjhi) P.S. Case No. 438 of 2017 registered for the alleged offences under Sections 406, 409, 419, 420, 467, 468, 471 and 120B of the Indian Penal Code.

As per prosecution case, the petitioner was approached by the informant for getting him sanctioned a loan and he furnished him his documents for this purpose. The petitioner assured the informant that his work was being done and he handed over to all his documents to one Kailash Mandal.

But even after passage of six months no loan was sanctioned and the documents of the informant were not returned. However, the informant received a notice regarding payment of Rs. 86,384/- to the bank. When the informant approached the bank manager of the concerned bank he came to know that using his documents which he gave to the petitioner, a loan was procured by the petitioner and other co-accused person in conspiracy with each other and the loan amount was embezzled by them using a fictitious account opened in the name of the petitioner.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner is not a bank employee and he never used to provide loan. As a matter of fact, informant has himself taken a loan of Rs.72,000/- and when he got a notice to return the amount to him, he has lodged this false case. Even during investigation, the investigating officer has not brought on record any documentary evidence against the petitioner regarding his participation in the alleged occurrence. Moreover, the thrust of allegations is against the co-accused Kailash Mandal and Dilip Mandal. The petitioner is in custody since 06.10.2021 and charge-sheet has been submitted. The petitioner has got no criminal history.

Learned APP as well as learned counsel for the informant appearing on behalf of the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the petitioner was the main culprit and has fraudulently used the documents of the informant for getting the loan sanctioned and defalcated the money so received from the bank.

Having regard to the facts and circumstances and rival submissions and further considering the period of custody of this petitioner along with the submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur in connection with Kotwali (Tilakmanjhi) P.S. Case No. 438 of 2017, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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