IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4193 of 2023
Arising Out of PS. Case No.-78 Year-2022 Thana- MOTIHARI MUFASIL District- East Champaran

==

MD WASIR ALAM @ MD. BASIR ALAM S/O MOHAMMAD SANAULLAH R/v- Rajepur, Ward No. 1, P.S.- Dhaka, District- East Champaran Motihari the Director of K.G.N. Kamtrade Private Limited, Rajepur, P.S.- Dhaka, District- East Champaran, Motihari... ... Petitioner/s

Versus

THE STATE OF BIHAR ... ... Opposite Party/s

==

Appearance :
For the Petitioner/s : Mr.Ravindra Nath Dubey, Advocate
For the Opposite Party/s : Mr.Narendra Kumar Singh, APP

==

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-05-2023 Heard Mr. Ramakant Sharma, learned senior counsel appearing for the petitioner and Mr. Yogesh Chandra Verma, learned senior counsel appearing for the informant and learned APP for the State.

The petitioner seeks bail, who is in custody since 20.11.2022 in connection with Muffasil P.S. Case No. 78 of 2022, F.I.R. dated 01.02.2022 registered for the offence punishable under Sections 420,406 of Indian Penal Code and Section 138 of the Negotiable Instrument Act.

Allegation against the petitioner is that he cheated Rs.2,50,00,000/- (Two Crores Fifty Lakhs) fraudulently in confidence from the informant and cheques given to the informant by the petitioner, but the same has been dishonoured after deposited for clearance.

Learned senior counsel appearing for the petitioner submits that the petitioner has falsely been implicated in the present case due to previous enmity. Further submits that the allegation as alleged in the FIR is false and fabricated. Further submits that earlier the informant was the employee of the petitioner's company K.G.N. Comtrade Private Ltd. and on good faith, the petitioner handed over the important papers, cheque book and seal of the Company etc. to the informant. The informant on getting such benefit of good faith, he picked up some cheques of the Company, for which the petitioner lodged Sanha No.05 of 2020 mentioning the missing of cheque Nos. Further submits that the petitioner has also filed application on 02.07.2020 to Branch Manager, Indian Bank for theft of withdrawal from RTGS from cheques and the petitioner has also given description of missing cheques on 16.07.2020 to Branch Manager, Indian Bank. Further submits that the petitioner lodged the complaint case being Complaint Case No.170 of 2022 in the court of Sub Divisional Judicial Magistrate, Sikrahana, Motihari against the informant, namely, Niraj Kumar Singh for the offence under Sections 406,420,467,468,471,387 of IPC. Further submits that the signature and amount not filled up by the petitioner on the cheques and the same can be verified by the signature expert. Further submits that the allegation as alleged in the FIR do not disclose commission of any cognizable offence, or constitute any criminal offence much less, the alleged offences under Sections 406 and 420 of IPC and Section 138 of the Negotiable Instrument Act. Further submits that there is no contract between the informant and the petitioner to supply the wheat and the informant never supplied the wheat as alleged by the informant. Petitioner is in custody since 20.11.2022.

Learned senior counsel for the informant and learned APP for the State have vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries four more cases other than the present one but fairly submits that out of four cases, the petitioner is on bail in three cases and rest one case is pending for consideration, as mentioned in para-3 of the supplementary affidavit. Further submits that the petitioner had entered into one agreement with husband of the informant on 20.06.2017 incorporating terms about supply of grains to the petitioner and cheated the informant and during investigation, police found case true against the petitioner. Further submits that the amount of Rs.2,50,00,000/- (Two Crores Fifty Lakhs) are by way of partly loans given to the petitioner and partly of the grains. Further submits that the petitioner took loan of Rs.

Thirteen Crores for business. Since, he was not paying and was becoming NPA. He took loan of Rs.20,00,000.00 (Twenty Lakhs) from the informant for the same.

Considering the aforesaid facts, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Muffasil P.S. Case No. 78 of 2022, with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for

cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Nitesh/-

U		T	