IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12055 of 2023
Arising Out of PS. Case No.-299 Year-2022 Thana- KOTWA District- East Champaran

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Rupesh Kumar Singh S/o Awadhesh Kumar Singh R/o village- Dumra, P.S.- Kotwa, Distt- East Champaran.

... ... Petitioner

Versus

1. The State of Bihar
2. Saurav Kumar Son of - Not Known The Branch Manager, Kotwa branch of the State Bankof India, Kotwa, Distt- East Champaran at Motihari.

... ... Opposite Parties

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Appearance :
For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 03-03-2023

Heard learned counsel for the petitioner and learned APP for the State.

2. This application has been filed for quashing of part of the order dated 29.11.2022 passed by learned Additional Sessions Judge, 5th, East Champaran, Motihari, in B.P. No.2694 of 2022 in connection with Kotwa P.S. Case No.299 of 2022, by which the learned Judge has allowed the bail petition filed by the petitioner with a condition that the petitioner will deposit Rs.4,00,000/- at the time of furnishing the bail bond and rest amount of principal money to be deposited by him every two months in installment of Rs.2,00,000/-.

3. The prosecution case, in short, is that the informant, who is the Branch Manager, State Bank of India, Kotwa Branch, has given a written application to the officer-incharge, Kotwa Police Station, alleging therein that Rs.10,00,000/- was sanctioned to the petitioner, proprietor of M/s. Singh Medicals, for doing business and said sanctioned amount was credited to the loan account of the petitioner and in this regard an agreement was also executed between the parties. However, the petitioner secretly sold the stock of M/s. Singh Medical, which was the property of the Bank, and did not pay the loan amount. Several notices have been issued by the Bank in this regard but the petitioner did not deposit the loan account. Altogether Rs.19,24,476/- along with interest is remained due upon the petitioner. On the basis of the aforesaid written application, the F.I.R. has been lodged against the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is a businessman in the field of medicine and as per the scheme of the Government of India he contacted the Bank for cash credit facility and after proper verification, he was granted the cash credit facility by the Bank. He further submits that an agreement was also entered into the parties but the copy of the said agreement was not supplied to the petitioner at the time of granting loan.

5. Learned counsel for the petitioner further submits that due to Corona pandemic, the business of the petitioner was affected and as such, he could not be able to deposit the loan installment and for recovery of loan amount, the Bank authority ought to have initiated appropriate proceeding before the appropriate authority but, the Bank authority has registered a criminal case which is not maintainable in the facts of the case. He further submits that one Pintu Kumar Pandey has also obtained the loan from the same bank along with the petitioner on the same terms and condition and his case was settled in the National Lok Adalat on the payment of 50% of principal amount but in the case of the petitioner, the present F.I.R. has been lodged that too without producing the copy of the agreement.

6. Learned counsel for the petitioner further submits that the condition which has been imposed by the Court below while granting bail to the petitioner is an onerous condition, which is not permissible in view of the law laid down by the Hon'ble Apex Court in the case of ***Sandeep Jain vs. National Capital Territory of Delhi*** reported in ***(2000) 2 SCC 66.***

7. Learned APP for the State has supported the impugned order and has submitted that the Court below has rightly imposed the conditions as the petitioner has failed to pay the loan amount.

8. I have considered the submissions of the parties and perused the materials on record. From the prosecution case, it appears that the present case is a case in which the loan taken by the petitioner has become N.P.A. and for recovery of the same, the Bank could have initiated recovery proceeding before the appropriate authority. It is primarily a civil dispute and the Bankers have filed the present F.I.R in order to pressurize the petitioner. The learned Additional Sessions Judge while granting bail to the petitioner has imposed a condition that the petitioner will deposit Rs.4,00,000/- at the time of furnishing the bail bond and rest amount of principal money to be deposited by him every two months in installment of Rs.2,00,000/-, which appears to be onerous. The Hon’ble Supreme Court in the case of ***Sandeep Jain vs. National Capital Territory of Delhi*** (supra), has held that conditions for grant of bail cannot become so onerous that their existence itself is tantamount to refusal of bail.

9. In the case of ***Indian Oil Corporation vs. NEPC (India) Limited*** reported in ***(2006) 6 SCC 736*** the Hon’ble Supreme Court has held that any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.

10. In view of the aforesaid discussions, this application is partly allowed. Accordingly, the order dated 29.11.2022 passed by the learned Additional Sessions Judge, V, East Champaran at Motihari, in B.P. No. 2694 of 2022, arising out of Kotwa P.S. Case No. 299 of 2022 is quashed to the extent of imposition of condition that the petitioner will deposit Rs.4,00,000/- at the time of furnishing the bail bond and rest amount of principal money to be deposited by him every two months in installment of Rs.2,00,000/-.

11. With the aforesaid observations and directions, this application is partly allowed.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	16.10.2023
Transmission Date	16.10.2023