

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28201 of 2023

Arising Out of PS. Case No.-181 Year-2019 Thana- SAHPUR District- Bhojpur

Rakesh Kumar Raushan S/O Khobhari Ram R/O Village- Nautan Khurd, P.O-
Nautan Khurd, P.S- Majhaulia, Distt.- West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Branch Manager, Dakshin Bihar Gramin Bank, Branch Mahuar, Buxar,
Distt.- Buxar. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Sr. Adv. Mrs. Priya Gupta, Adv. Mr. Parul Prasad, Adv. Mr. Lokeshh Kumar, Adv. Mr. Rahul Kumar, Adv.
For the Opposite Party/s :		Mr. Pramod Kumar Pandey, APP
For the Bank	:	Mr. Ranjeet Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 15-09-2023 Let the defect(s), if any, be removed within two weeks
from today.

2. Heard learned senior counsel for the petitioner and
learned A.P.P. for the State.

3. The petitioner seeks regular bail in connection with
Shahpur P.S. Case No. 181 of 2019 dated 22.07.2019, lodged
under Sections 409 and 420 of the I.P.C.

4. Learned senior counsel for the petitioner submits
that the bail application of the petitioner has earlier been
rejected vide order dated 27.09.2022 passed in Cr. Misc. No.
43113 of 2021 in which direction was given to the Trial Court to

expedite the trial within one year.

5. Learned senior counsel for the petitioner further submits that as per his information, even charge has not been framed till date. Counsel further submits that the petitioner is in custody since 28.01.2021, more than 2 ½ year has crossed. Learned counsel further submits that it is a case in which total misappropriation of Rs.2,45,22,942/- have been made in which allegation of embezzlement are upon two persons. The Branch Manager and the petitioner who is the Class III staff of the Bank. The allegation of making fraud of Rs.1,78,15,284/- is upon the Branch Manager who has been granted anticipatory bail whereas, the allegation against the petitioner is to take Rs.25,82,000/- only.

6. Learned senior counsel for the petitioner further submits that the O.P. No. 2, the authority of Bank is opposing the bail application of the petitioner by tooth and nail but on the other hand, the same Bank authority has not even filed cancellation of bail for the Manager of the Branch against whom, the allegation of Rs.1,78,15,284/- is there.

7. Learned senior counsel for the petitioner further submits that in the independent merit of the case, the Trial Court is not bothered to follow the direction made by this Court.

Since, a specific direction was given to the Trial Court to expedite the trial within one year but one year is going to end on 26.09.2023 and till date, charge has not been framed. Since, charge has not been framed, there is no chance of end of trial within one year.

8. Learned counsel for the State opposes the prayer for bail.

9. Learned counsel for the Bank vehemently opposes the prayer for bail and submits that the Judicial Officer who has granted bail to the main accused is subject to scrutiny and this Hon'ble Court has issued a show cause notice to the said Judicial Officer. But on the question that why charge has not been framed, he is unable to answer on this question and submits that it is a duty of the prosecution and the Court to frame the charge.

10. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs. 30,000/- (Rupees Thirty Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. Bhojpur at Ara in connection with Shahpur P.S. Case No. 181 of 2019, subject to the following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidence, failing which the State shall be at liberty to take steps for cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

11. With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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