IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39623 of 2021

Arising Out of PS. Case No.-2 Year-2021 Thana- GANDHIMAIDAN District- Patna

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AMRIT KUMAR Son of Vimal Kumar Singh Resident of Village- Amurza, P.O.- Pasaur, P.S.- Charpokhari, District- Bhojpur.

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Abhishek Raja Son of Ashutosh Prasad Branch Manager, Kotak Mahindra Bank Limited, Shop No.35, Ahmad Hussain Complex, Exhibition Road, P.S.- Gandhi Maidan, Patna.
3. The Economic Offence Unit, Bihar, Patna Bihar

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 40058 of 2021

Arising Out of PS. Case No.-2 Year-2021 Thana- GANDHIMAIDAN District- Patna

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SAURABH KUMAR Son of Vijendra Kumar Singh Resident of Krishna Bihar, Bahiro, P.S.- Nawada, District - Bhojpur at Ara

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 39623 of 2021)

For the Petitioner/s	:	Mr.Jai Vardhan Narayan, Adv.
For the EOU	:	Mr.V.N.P. Sinha, Sr. Adv.
		Ms.Soni Shrivastava, Adv.
For the Bank	:	Mr.Dayanand Singh, Adv.
For the State	:	Mr.Shyam Kumar Singh, APP

(In CRIMINAL MISCELLANEOUS No. 40058 of 2021)

For the Petitioner/s	:	Mr.Mukul Sinha, Adv.
For the State	:	A.G.

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

11 21-03-2023 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

I have already heard Mr. Mukul Sinha, the learned counsel for the petitioner, Mr. V.N.P. Sinha, the learned senior counsel for the EOU, Mr. Dayanand Singh, the learned counsel for the Bank as well as Mr. Shyam Kumar Singh, the learned APP for the State.

The petitioners apprehend their arrest in connection with Gandhi Maidan P.S. Case No. 02 of 2021, registered for the offences punishable under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code.

Informant of this case is Mr. Abhishek Raja, who is Branch Manager of Kotak Mahindra Bank Ltd., Exhibition Road Branch, Patna. As per FIR, co-accused Shubham Kumar Gupta visited the Branch on 02.01.2021, with three suspicious RTGS requests amounting to Rs. 4,75,54,167/-, Rs. 4,84,13,127/- and Rs. 2,13,45,427/-, i.e., Rs. 11,73,12,721/- in total, from the account of CALA-cum-DLAO Patna and PD NHAI, Account No. 1612046806. The beneficiary in all the three cases was BS Enterprises having account bearing No. 040405501628 with ICICI Bank. Shubham Kumar Gupta was also carrying a photocopy of the AADHAR Card belonging to the authorized signatory of CALA officer, Mr. Pankaj Patel, as the same was required for transferring the amount from the

NHAI-cum-CALA account.

It is further alleged that for transfer of monCREATE ORDERey through RTGS, cheques were required along with the RTGS forms consisting of the signature of the Branch Manager of the Bank with the remark "Ok to Process" and Shubham Kumar Gupta was also carrying the same with him. However, Shubham Kumar Gupta was not carrying the original cheque with him. He submitted the requests at the counter of the Service Officer. The Service Officer got suspicious regarding the requests as the voucher submitted by the petitioner was without a cheque and the letter issued on the NHAI appeared to be a xerox copy of the original letter head. Thereafter, on further scrutiny, the Service Officer found out that the signature on the request did not match with the account holder, Mr. Pankaj Patel's signature who was the authorized signatory in the account. The request also carried the remarks "Ok to process" and was signed by the Branch Manager of the Bank. Upon enquiry from the Branch Manager regarding the same, the Branch Manager denied signing upon any such request. The Branch Manager also contacted the customer to confirm the genuineness of the transaction and the CALA office, vide their letter dated 02.01.2021, denied having issued any such request for fund transfer and requested the Bank to take appropriate action in the matter.

The learned counsel for the petitioners has submitted that they are innocent and have falsely been implicated merely on the basis of confessional statement of co-accused Shubham Kumar Gupta.

The learned counsel for the petitioner Saurabh Kumar has submitted that he, along with petitioner, Amrit Kumar, opened an e-commerce company known as ‘Blue Fire Innovation’. The business of company was of e-commerce relating to house-keeping maintenance services etc. The company was duly registered. The registration no. is PT/TBSC-REG2020/01933. Aforesaid Shubham Kumar Gupta was merely an employee of the company at that time. Shubham Kumar Gupta, as per submission of the learned counsel for the petitioners, falsely implicated the petitioners since he was terminated from his employment on the ground of his suspicious conduct. Due to that grudge, he falsely implicated the petitioners in his confessional statement. He has also submitted that not a single penny was transferred in the bank accounts of the petitioners.

On the other hand, the learned counsel for the

EOU, the learned counsel for the Bank as well as the learned counsel for the State have opposed the prayer for bail and submitted that it is an organized crime, in which huge government money was siphoned off from the government account and was transferred fraudulently and illegally to the bank account of the accused persons.

My attention was drawn towards paragraph No. 77 of the supplementary case diary, which shows that the government money, though not transferred directly to the account of petitioner, Saurabh Kumar, but it was indirectly transferred to his account. Firstly, the money was transferred from government account No. 7812084686 to the account of M/s Shakuntala Enterprises in its account No. 37194424923 and it was transferred from the account of M/s Shakuntala Enterprises in the account of Infinity Kart in its account No. 040405008585 and the account holders are petitioner Saurabh Kumar and Sidhhartha Yadav. The arrested accused Shubham Kumar, in his confessional statement, has given vivid description of the entire occurrence, disclosing the modus operandi of the organized group. He has named both the petitioners. He has stated categorically that it was petitioner Amrit Kumar, who handed over three RTGS forms, which have been mentioned in the FIR.

Considering the materials collected during the course of investigation, I do not think it to be a fit case for anticipatory bail. Accordingly, the anticipatory bail petition of both the petitioners are rejected.

Office shall ensure that all defects are removed by the petitioners within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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