

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33171 of 2023

Arising Out of PS. Case No.-195 Year-2021 Thana- DALSINGHSARAI District- Samastipur

Shivam Kumar @ Shivam Kumar Choudhary Son Of Shri Ram Babu Choudhary Resident Of Vill. Rampur Jalalpur P.S. Dalsingsarai District Samastipur (ADDRESS As Mentioned In Columan No. 7(I) Of Fir) Resident Of Village- Bhaidiya, Ps- Mohiuddin Nagar, Distt- Samastipur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aaruni Singh, Advocate
For the Opposite Party/s	:	Mr. Dr. Kumar Uday Pratap, APP
For the Informant	:	Mr. Naresh Chandra Verma, Advocate
		Mr. Rajiv Kumar Singh, Advocate
		Mr. Saket Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 11-10-2023 Heard Mr. Aaruni Singh, learned counsel for the petitioner, Mr. Rajiv Kumar Singh, Mr. Naresh Chandra Verma and Mr Saket Tiwary, learned counsel appearing on behalf of the informant as well as Mr. Kumar Uday Pratap, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Dalsingh Sarai P.S. Case No. 195 of 2021, F.I.R. dated 16.07.2021 for the offences punishable under Sections 406, 420/34 of the Indian Penal Code.

3. According to prosecution case, there is allegation of commission of cheating against the petitioner and other accused persons who were working as an agent for collection of money



in the online bank of one Pankaj Kumar Chaudhary and have taken money from the informant as well as from other persons.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. and the co-accused, namely, Pankaj Kumar Chaudhary has started the business and running online bank namely, Coin Fortune and for the collection of money he has appointed number of persons as an agent and the petitioner was one of them. He further submits that the petitioner has paid the entire amount in question as alleged in the F.I.R before the filing of the present F.I.R by Pankaj Kumar Choudhary (informant) and one Anurag Kumar Jha, the petitioner has already settled the amount on 16.7.2021 and the present application has been filed by Anurag Kumar Jha on 29.08.2021. After the settlement of the account, one Anurag Kumar Jha has filed the application dated 29.08.2021 which was addressed to SHO Dalisingh Sarai P.S. Samastipur and the same was attached with the present F.I.R.

5. Learned counsel for the petitioner further submits that the petitioner at the relevant time i.e. from November, 2020



to July, 2021 was responsible for collection of funds/money from Anurag Kumar Jha, Ritu Kumar, Abha Devi amounting Rs. 23,80,000/-. He further submits that the said Anurag Kumar Jha claiming total of Rs. 23,80,000/- due from the end of the petitioner. He further submits that the petitioner already deposited the aforesaid amount and the said Anurag Kumar Jha in his counter affidavit accepted that he has received Rs. 23,80,000/- and Pankaj Kumar Chaudhary and Santosh Kumar Chaudhary who have filed the present F.I.R, their accounts have also been settled by the accused persons. He further submits that the similarly situated co-accused, namely, Saurav Choudhary @ Saurav Kumar Choudhary has been granted anticipatory bail by Co-ordinate Bench of this Court vide order dated 08.12.2022 passed in Cr. Misc. No. 2847 of 2022. In view of the aforesaid, no case is made out against the petitioner.

6. Mr. Rajeev Kumar Singh, learned counsel appearing on behalf of Anurag Kumar Jha submits that although he has received the aforesaid amount but approximately Rs. 30,00,000/- is still left with the accused persons which they have not paid as yet. He further submits that the anticipatory bail petition of the co-accused, namely, Sitesh Kumar @ Sitesh Kumar Jha has been rejected by a Co-ordinate Bench of this



Court vide order dated 14.07.2022 passed in Cr. Misc. No. 65980 of 2021.

7. Considering the aforesaid fact that the petitioner has clean antecedent and he has returned back the entire amount to the informant and to Anurag Kumar Jha and the co-accused person has been granted anticipatory bail by the Co-ordinate Bench of this Court, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate I, Dalsinghsarai (Samastipur) in connection with Dalsingh Sarai P.S. Case No. 195 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

i. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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)

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