

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41112 of 2022

Arising Out of PS. Case No.-366 Year-2021 Thana- RAMPUR District- Gaya

MD. MANSUROOL HASSAN KHAN SON OF LATE DR. QAMRUL
HASSAN KHAN R/O MOHALLA- WHITE HOUSE COMPOUND, ROAD
NO.-03, P.S.- RAMPUR, DISTRICT- GAYA

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shri Rabi Bhushan Kumar Son of Bindeshwari Prasad Chief Manager
Authorised Officer, Occupation Service, Punjab National Bank, Kashinath
More Branch, Civil Line Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Sr. Adv
Mr. Pramod Kumar Singh, Adv
For the Opposite Party/s : Mr. Dilip Kumar No.1, APP
For the Punjab National Bank : Mr. Anuj Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 15-02-2023 Heard the parties.

The petitioner apprehends his arrest in a case registered
for the offence punishable under sections 427, 448, 457, 406,
420, 353, 188, 34 of the Indian Penal Code.

As per the FIR, the petitioner took loan from Punjab
National Bank in the year 2016 to the tune of Rs.40 lacs and it is
said that due to non-payment of the loan installments, the said
account got N.P.A, and hence by exercise the right u/s 14 of the
SARFAISI Act, the Collector, Gaya issued a memo and in
response of the same, the SDO Sadar Gaya under his memo
appointed a Magistrate, who took physical possession of the



mortgaged property on 27.10.2021. Though the loanee petitioner and others had created unwarranted statement. It is also said that when the bank officials made sudden inspection of the possessed property then he noticed that the lock and seal was broken and a new lock was made to the premise and on the other hand, the petitioner was found residing in the said premise. Hence, the bank created doubt that the articles and goods sealed and locked in the said premise might have been removed by the petitioner and to make allegation against the Bank. The petitioner and other accused persons are accountable to break the lock and seal of the bank and violated Rules of Law.

It is submitted by learned senior counsel for the petitioner that petitioner is quite innocent and have committed no offence. He has been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The informant has suspected suspicion that articles and goods sealed and loaded in the said premises may be removed and allegation of removing goods may be gone against the bank. He further submits that from the order dated 10.02.2022 passed in CWJC No.20719 of 2021, it is quite clear that the OP No.2 Bank has admitted that mortgage property was already handed over to the



successful bidder so institution of the FIR on 04.11.2021 by the OP No.2 is quite illegal and allegations corporated therein is extremely false because after taking the possession of property by successful bidder the OP No.2 Bank has no right & locus standie to institute the instant FIR. It is also false to say that the property was sealed out on the very date as on 04.11.2021 because the property was handed over to Sajjad Hussain (bidder) as earlier on 27.10.2021. The petitioner has already requested the bank officials to return the house and articles both on 12.01.2023 by direct visit and written also, but the bank refused. Petitioner has no criminal antecedent.

Learned APP for the State as well as learned counsel for the O.P. No.2 opposed the prayer for anticipatory bail. Learned counsel for the O.P. No.2 submits that the petitioner has made false and misleading statement that he remained paying the loan premium. The petitioner was served with several notices but no step was taken by him to settle the loan. The petitioner failed to pay the agreed compromised amount, then the Bank was compelled to continue the SARFAESI action and due to which the property mortgaged was auction sold on 07.10.2021. It is further submitted that although on 27.10.2021, bank handed over the key of the locked property to the auction purchaser but



actual possession could not be transferred because the household articles were not removed by the petitioner, so the premises was sealed. He further submits that during the investigation of the present case it has come forward that the petitioner in collusion with his brother has broken the seal of the premises.

Having regard to the facts and circumstances of the case, let the above named petitioner, be released on bail, in the event of his/her arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Rampur P.S. Case No.366 of 2021, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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