IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51799 of 2023

Arising Out of PS. Case No.-272 Year-2019 Thana- GARDANIBAG District- Patna

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SIDHESHWAR PRASAD SON OF LATE BANGALI PRASAD @ BANGALI RAY RESIDENT OF VILLAGE- BALMICHAK, PS- PHULWARI, SHARIF, DISTT- PATNA

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv.
		Mr.Rakesh Kumar Sharma, Adv.
For the Opposite Party/s	:	Mr.Sanjay Kumar Tiwary, APP
For the informant	:	mr. Rajesh Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

4 05-09-2023 Heard learned counsel for the petitioner and learned counsel for the informant as well as learned A.P.P. for the State.

The petitioner seeks bail in connection with Gardanibagh P.S. Case No. 272 of 2019 registered for the offence under Sections 406, 420, 467, and 468 of the Indian Penal Code. Later on cognizance has been taken only under Section 467 and 468 of the Indian Penal Code.

The petitioner is alleged to have committed fraud with the informant and on the basis of forged and fabricated documents, he took over the management of the firm established by in informant in the name and style of Zanbios Laboratories Ltd. in which the informant and her husband along with her daughter was the Directors. It is further alleged that petitioner was having friendly relation with the family of informant, therefore, due to excessive work of the company, the petitioner was made one of the Director of the said firm and thereafter the petitioner was starting cheating the informant by diverting the company transaction to another account. She also alleged that she booked a flat in which the petitioner was allowed to reside but the same has been grabbed by the petitioner.

Learned senior counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. He further submits that as a matter of fact, the petitioner had invested Rs. 22,0000/- in the firm of the informant on the offer being made by the husband of the informant and accordingly on the consent of the board of Directors, the petitioner was made a member of board of Directors and in that capacity the petitioner has acted upon as per the memorandum of Association. He further submits that the informant and her husband was having ill intention against the petitioner's fund and started diverting of company fund and when the petitioner inquired about the accounting of the firm, her daughter gave resignation from her assignment. In this regard, the petitioner has also lodged a complaint case No. 4790 of 2018 before the

Chief Judicial Magistrate, Patna. He further contends that the petitioner has never produced any forged and fabricated documents before any competent authority nor obtained any forged drug license in the name of the company, therefor, the entire allegation is baseless against the petitioner.

Learned senior counsel further drawn the attention of this Court towards the core issue of the case that, according to him, the case is banked upon the management dispute of the Zanbios Laboratories Ltd. between the directors of the firm of which the petitioner is also a member. No case of cheating or forgery is made out against the petitioner. In this context, learned senior counsel for the petitioner also filed a supplementary affidavit bringing on record the memorandum & Article of Association and Form No. DIR-12. He further submits that if there would be any irregularity in the management of the firm on the part of the petitioner, who is a member of the firm, the informant may take recourse before the competent authority which is Registrar of Companies.

Learned senior counsel in support of his contention further contends that though the instant F.I.R. has been registered under Sections 406, 420, 467 and 468 of the Indian Penal Code against the petitioner but the learned magistrate upon going through the materials collected during investigation, has taken cognizance against the petitioner only under Section 467 and 468 of the Indian Penal Code finding no case under Section 420 of the Indian Penal Code against the pettioner.

On the aforesaid contention, learned senior counsel for the petitioner prays for grant of bail to the petitioner as he has been languishing in jail since 25.03.2023.

Learned counsel for the informant as well as learned A.P.P. for the State opposed the prayer for bail of the petitioner and submits that the petitioner has played significant role in the alleged occurrence and trying to grab the established business of the informant.

Considering the facts and circumstances of the case and the nature of accusation and the dispute and also the order taking cognizance, let the, above named, petitioner 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 learned Judicial Magistrate-1st Class, Patna in connection with Gardanibagh P.S. Case No. 272 of 2019 with the following conditions:-

(1) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

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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