

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52730 of 2022

Arising Out of PS. Case No.-3 Year-2019 Thana- C.B.I CASE District- Patna

SHAILESH PRATAP @ SHAILESH PRATAP SINGH S/o Sita Ram Lal R/o
Vill- Flat, No.303, Ravishankar Apartment, Khajpura, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Central Bureau of Investigation through the Superintendent of Police, Patna.
Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajeev Kumar Singh
For the Opposite Party/s	:	Mr. Parmanand Kumar
For the PNB	:	Mr. Arvind Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

7 13-03-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Learned counsel for the petitioner undertakes to
remove the defects, if any, within three weeks.

The petitioner is apprehending his arrest in a case
registered for the offence punishable under Sections 120 read
with Sections 420, 467, 468, 471 and 182 of the Indian Penal
Code pending in the learned court below.

The learned counsel for the petitioner submits that the
informant alleges that accused-company namely, M/s Om
Aastha Construction Private Limited through its Directors
sought financial assistance and caused the bank to believe that



with the said loan the business of the company would grow. On the basis of the representation of the accused company, Punjab National Bank sanctioned the facility of term loan of Rs.1985.46 lakhs and cash credit of Rs.193.23 lakhs. It is further alleged tht on 02.08.2012 the credit facilities were sanctioned by the applicant bank on various terms and conditions as set out in the loan document. It is further alleged that to secure the above said liability of the company, Shailesh Pratap @ Shailesh Pratap Singh (petitioner), Sudha Pratap daughter of Rajeshwar Lal and Bishwambhar Singh son of Jagdeo Singh stood as guarantor and executed agreement of guarantee dated 18.12.2012 wherein the liability of the guarantor are joint, several and co-extensive with the company. It is next alleged that the company again approached the bank for TLIP against EM of IP and submitted loan application dated 29.10.2015 and upon consideration of proposal, a sum of Rs.55,00,000/- was sanctioned on 02/04-11-2015 against registered mortgage of immovable property as primary security of flat no.303, 3rd floor, Ravishankar Apartment area 1150 square feet situated at Mauza-Khajpur with car parking. In order to secure the above said liability of the company, petitioner, Sudha Pratap and Bishwambhar Singh stood as guarantor and



executed agreement of guarantee dated 04.11.2015. It is next alleged that encashment of cash credit to Rs.250 lakhs term loan facility of Rs.195.46/- Lakh and enhanced the cash credit to Rs.250 lakhs from Rs.193.23 lakhs. It is next alleged that the encashment of cash credit limit to Rs.400 Lakhs from Rs.250 Lakhs was sanctioned by order dated 28.09.2016. It is further alleged that the account of the company became irregular and the bank requested the company to regularize the accounts but company failed in regularizing its accounts. It is next alleged that the flat no.303 which was mortgaged by way of guarantee was earlier mortgaged with the Canara Bank to secure the credit facility availed by M/s Om Aastha Construction Private Limited prior to it being registered, mortgaged in favour of Punjab National Bank. Thus, it is alleged that the accused person with a view to cause wrongful gain to the bank to the tune of Rs.811.86 lakhs misappropriated the said amount.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He submits at Para-10 of the anticipatory bail application that it was a human error and mistake by one of the Directors of the Company, who had mortgaged the same property with the Canara Bank without the knowledge of the petitioner. He further



submitted that it absolutely does not stand to reason that how could Punjab National Bank have sanctioned the loan without diligently verifying the said fact. He submits that the petitioner is ready to pay the said amount and he has also shown the M.O.U. filed in the Punjab National Bank. He further submits that this FIR is nothing but an abuse of the process of the court with a view to put the petitioner under fear of arrest and to coerce him so that he parts with the money for which he stood as a guarantor. He further submits that petitioner have got four criminal antecedent but all of them are complaint case in which he petitioner on anticipatory bail as stated in para-3 of the bail application.

Per contra, learned APP for the State vehemently opposes the prayer for bail and submits that the M.O.U. has been filed by another person and Rs.8,00,00,000/- (Rupees Eight Crores) is due against the petitioner to pay to the said bank. He further submits that earlier the property has been given to the Bank on that basis the loan was given and this fact is also not denied by the learned counsel for the petitioner. Hence, he does not deserve anticipatory bail. Learned Senior counsel for the CBI submits that the petitioner had earlier mortgaged the property in question with Canara Bank and it was only when the



loan with the Punjab National Bank was declared NPA and the same was published in Newspaper then Canara Bank disclosed the said fact to the Punjab National Bank. She further submits that the petitioner despite aware that the property was mortgaged with Canara Bank still be chose not to disclose the same to the Punjab National Bank. The Learned Senior Counsel further submits that the property in question was mortgaged in Canara Bank and the same was not uploaded to its website therefore the said property was not shown as mortgaged in Canara bank when Punjab National Bank checked the status of the said property.

Considering the nature of the offence, I am not inclined to enlarge the petitioner on bail in connection with R.C. 03(S)/2019, Special Case No. 11/2019. Accordingly, his prayer for anticipatory bail is hereby rejected.

(Anjani Kumar Sharan, J)

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