

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65755 of 2022

Arising Out of PS. Case No.-28 Year-2022 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

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DHIRAJ KUMAR GUPTA Son of Mahabir Lal Gupta Resident of Twin
Tower, Flat No- 501, WT, P.S- Gandhi Maidan, District- Patna

... .. Petitioner/s

Versus

The State of Bihar through the Director General, Vigilance Investigation
Bureau, Bihar, Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sadanamd Roy, Advocate
For EOU	:	Mr. Vishwanath Pd. Sinha, Sr. Advocate
		Mr. Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 17-03-2023 Heard learned counsel for the petitioner and learned
Senior counsel appearing on behalf of E.O.U.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 419, 420, 467, 468 of the
Indian Penal Code.

According to prosecution case, informant- Mithilish
Kumar, P.S.I., Economic Offence Unit, Bihar, Patna submitted
his written report to S.P., Economic Offence Unit Bihar, Patna
stating therein that on 19.07.2022 at about 12.30 P.M. he was
deputed for conducting the investigation on the basis of
complaint lodged on 03.03.2022 by one Ranjan Kumar, who is
Security Manager of Delivery Hub of Flipkart Patna Area



regarding delivery order No. OD124272559632119000 of i-Phone 13 Pro-Max was returned by the customer. On enquiry, it was found that the IMEI number of the Phone was different. On asking from the Delivery Boy, who told that the customer has returned the said phone on road which was kept in his bag in sealed condition. On completion of delivery process, delivery boy gave the phone set which was found 256 GB whereas the phone ordered by the customer was 512 GB and IMEI number was also found different upon proper verification of delivered i-Phone. Therefore, constituting the raiding team along with Hub Managers and other police personnel and conducted the raid in the premises of the petitioner as the location given by the Hub Manager and delivery process has been completed and found that the said Dhiraj Kumar Gupta delivered the dummy i-Phone in place of original delivered i-Phone. As such, the customer-petitioner fraudulently obtained i-Phone from delivery boy and returning the same with dummy i-Phone by cancelling the order placed. Police made searched in presence of witnesses, and recovered empty boxes of dummy i-Phone and other mobiles, the i-Phone which is said to have delivered by Flipkart as per order of petitioner with tax invoice amounting to Rs.1,59,929/-, etc. which was seized and accordingly seizure list has been



prepared. On query, the petitioner did not give satisfactory reply about the recovered dummy i-Phone. On further query, he told that the said dummy set of i-Phone was brought from Delhi Gafar Market. On such complaint, a raid was conducted in the premises of Dhiraj Kumar Gupta and several items were recovered and seized.

Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that as per the allegation in the FIR, the petitioner has supplied dummy i-Phone in place of the original i-Phone to the informant's sister-in-law. He further submits that the allegation, as alleged in the F.I.R., is false and fabricated. He further submits that the informant had placed the order to purchase the Apple i-Phone 13 Promax in the name of his sister-in-law Chinky Kumari and for which he paid Rs.1,59,929/- but the same was not delivered by the Flipkart to the informant's sister-in-law Chinki Kumari and the petitioner has grabbed the amount in question and handed over the dummy mobile phone to the sister-in-law of the informant. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 20.07.2022.



Mr. Vishwanath Prasad Sinha, learned senior counsel for EOU assisted by Mr. Vijay Anand has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries two criminal antecedents other than the present one.

Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 Court below where the case is pending in connection with Economic Offence P.S. Case No. 28 of 2022, subject to 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled 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.



3. 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)

Saurabhkrsinha/
Alok/-

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