

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64135 of 2022

Arising Out of PS. Case No.-259 Year-2022 Thana- BODHGAYA District- Gaya

SANJEEV KUMAR S/O LATE ASHISHWAR PRASAD R/o- Flat No.- 603,
Khelgaon Housing Complex, P.S.- Khelgaon Hotwar Ranchi, District- Ranchi
(Jharkhand) Petitioner/s

Versus

1. The State of Bihar
2. Sneh Shri S/o Sanjay Kumar R/v- Quarter No.-254, A.P. Colony, P.S.-
Rampur, District- Gaya Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Singh, Sr. Advocate
	:	Mr. Jitendra Narain Sinha, Advocate
For the Opposite Party/s	:	Mr. Shahabuddin Azeem @ S. Azeem, APP
For the Informant	:	Mr. Ramakant Sharma, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 14-03-2023 Heard Mr. Jitendra Kumar Singh, learned senior counsel appearing for the petitioner, Mr. Ramakant Sharma, learned senior counsel assisted by Mr. Rajesh Kumar, learned counsel for the informant and the learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the offence under Sections 420, 406/34 of IPC and Section 138 of Negotiable Instrument Act.

The prosecution case, in short, is that the allegation against the petitioner is that Rs.58,00,000/- (Fifty Eight Lacs) has been credited in the account of the petitioner on the direction of co-accused Sanjay Kumar and that amount is claimed by the informant that it was the part of the advance money related to the sale agreement of Hotel Heritage.



Mr. Jitendra Kumar Singh, learned senior counsel appearing for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. He further submits that the prosecution has not come with clean hand and the petitioner happens to be brother-in-law of co-accused Sanjay Kumar and the petitioner has no concern at all with the day to day affairs of co-accused Sanjay Kumar and other co-accused persons. As per prosecution, the petitioner is nowhere in the alleged partnership deed or in the memo of agreement dated 04.05.2021 on the basis of which the prosecution party has given Rs. Nine Crores Thirty One Lac between the period 03.04.2017 to 04.05.2021. Learned senior counsel further submits that from a bare perusal of the FIR, it is crystal clear that the entire cheques were given by the co-accused Sanjay Kumar, who happens to be the brother-in-law of the petitioner and hence, no liability comes upon the present petitioner. The petitioner is neither the owner of the alleged Hotel Heritage situated at Bodhgaya nor he has any dominion over the same to either enter into any agreement for sale or to deal with the same in any manner and hence no case is made out against the petitioner under Section 138 of the Negotiable Instruments Act and Sections 406 and 420 of the Indian Penal



Code. Learned senior counsel for the petitioner further submits that neither at the time of negotiation to sale out Hotel in question nor the petitioner was present or even was signatory of the agreement or witness. The entire transaction was done by the informant side with the co-accused Sanjay Kumar without even knowledge of the petitioner and the only reason for falsely implication of the petitioner as being relative, brother-in-law of Sanjay Kumar and son-in-law of Meena Devi.

The sale agreement executed on 04.05.2021 in between Meena Devi and Sanjay Kumar 1st party and informant and Sourya Shree the 2nd party. Another agreement executed on 19.04.2021 in between Sanjay Kumar and the informant and his relatives to be partner in Hotel Heritage Bodh Gaya. The petitioner also does not find any place even as a witness of the agreement. Further submits that the registered sale deed bearing Deed No.14983 executed on 27.07.2021 in between Meena Devi and Abhilasha Kumari the petitioner does not find any place even as a witness. Further submits that as far as allegation against the petitioner is that Rs.5800000/- (Fifty Eight Lacs) has been credited in the account of the petitioner on the direction of co-accused Sanjay Kumar and that amount is claimed by the informant that it was the part of the advance



money related to the sale agreement of Hotel Heritage is totally false and concocted. In fact the amount of Rs. 5800000/- (Fifty Eight Lacs) was invested capital of the informant's brother in wine and liquor business and nothing has been stated in the FIR regarding amount of Rs. 58,00,000/- (Fifty Eight Lacs) but due to snap of business of wine and liquor with the petitioner and brother of the informant, this false and concocted case has been instituted against the petitioner on being relative of co-accused Sanjay Kumar. Petitioner is in custody since 25.09.2022.

Mr. Ramakant Sharma, learned senior counsel appearing on behalf of the informant as well as learned APP for the State have vehemently opposed the prayer for bail of the petitioner and submits that the sufficient material has come during investigation against the petitioner that the petitioner was involved in the present occurrence but fairly submits that the informant has not complied the mandatory provisions of Section 138 of the Negotiable Instruments Act and under Negotiable Instruments Act, the complaint is required to be filed but in the present case, the informant has lodged the FIR.

Considering the aforesaid facts, 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 learned court below where the case is pending in connection with Bodhgaya P.S.Case No.259 of 2022 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 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.

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)

Nitesh/-

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