

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 68537 of 2022

Arising Out of PS. Case No.-224 Year-2021 Thana- RIVILGANJ District- Saran

ABHAY KUMAR GAUTAM S/o Late Vishwanath Singh R/o Shivpuri
Belwana, Motihari, P.S.- Town Thana, Distt- East Champaran. @Amit Kumar
Singh (Male), S/o- Sri Vipin Singh, R/o Village- Dhangarha Khjuria Rampur,
P.S.- Khajuria, Distt-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.N.K. Agarwal, Sr. Adv. Mr.Binod Kumar Sinha
For the Opposite Party/s	:	Mr.Prem Kumar Jha
For the Informant	:	Mr.Rajesh Kumar Jha Mr.Mukesh Mishra

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

8 19-05-2023 Heard Mr. N.K. Agrawal, the learned Senior
counsel for the petitioner as well as the learned Additional
Public Prosecutor for the State and also heard the learned
counsel for the informant.

The petitioner is seeking regular bail in connection
with Rivilganj P.S. Case No. 224 of 2021, registered for the
offences punishable under Sections 406, 420, 467, 468 and 469
of the Indian Penal Code.

The present FIR has been lodged on the basis of
complaint made by Ranjeet Kumar Ram. As per allegation, the
present petitioner Abhay Kumar Gautam @ Amit Kumar Singh,



to whom the informant met at Hajipur tempo stand, called him at his house. He allured the informant/complainant to provide either salary of Rs. 20,000/- per month or at the rate of one per cent commission from NABARD. The informant became ready to work under the petitioner. The petitioner apprised the informant that NABARD provides loans for agriculture, pisciculture and poultry etc. on which 25-50% subsidy is being provided and the informant was promised to receive commission of one per cent on the loans which were given at his instance. Believing the words of the petitioner, the informant started working under him. The petitioner also told him that he would get training in Bombay, if he will be able to open 146 accounts and each account holder has to pay Rs. 30,000/-. The informant, believing the petitioner, got deposited Rs. 29,50,000/- from the different loan aspirants, which were deposited in the account of the persons indicated by the petitioner mentioned in paragraph no. 6 of the complaint petition. The accused persons, after misappropriating the hard earned money of the rustic villagers, disappeared after leaving Gopalganj and Saran.

The learned Senior counsel Sri N.K. Agrawal, has submitted that he is a person of clean antecedent and has not



cheated any person. He has submitted further that the informant himself was implicated by the investors in two cases, which have been lodged prior to the present case. He has also submitted that the allegation against the petitioner is that he has made forgery by displaying his identity card relating to NABARD, but that identity card does not belong to the petitioner. He has next submitted that the petitioner was not named in the FIR and considering this fact, an explanation was called for from the investigating authorities, vide order dated 09.12.2022 as to how had he arrested the petitioner. He has submitted that the petitioner is not Amit Kumar Singh rather he is Abhay Kumar Gautam. He has also submitted that as per allegation, the loan aspirants had given money to the petitioner in lieu of facilitation of loans to them and the act of loan aspirations itself not supported by law and it is settled principle that no claim can be made on the basis of an illegal contract, and the persons who had given money to the petitioner are equally liable for criminal action. The informant and the persons, who had paid the money to the petitioner are at the same time, liable for commission of illegal acts.

On the other hand, the learned counsel for the informant as well as the learned APP have opposed the prayer



for bail and submitted that the petitioner is not a person of clean antecedent but he is also accused in other cases. Believing the words of the petitioner, the informant got deposited money in the accounts of different persons indicated by the petitioner. The petitioner fled away with the huge amount and due to malafied act of the petitioner, two investors lodged a case against the informant. They have submitted further that the petitioner has taken a plea that he is not Amit Kumar Singh, rather he is Abhay Kumar Gautam. In this respect, an explanation was called for from the Investigating Officer, as to how he arrested the petitioner when he was not named in the complaint. The Investigating Officer filed his detailed affidavit and has mentioned that the petitioner, after affixing his photograph on Aadhar card of one Abhay Kumar Gautam, depicting him as Abhay Kumar Gautam, committed forgery. They have also submitted that the petitioner has concealed his identity and thereby, cheated a number of persons. He has next submitted that the petitioner has concealed his criminal antecedent in paragraph no. 3 of the bail petition. The petitioner has confessed his guilt in paragraph no. 41 of the case diary and he has given the vivid description of *modus operandi* of his organized gang in his confessional statement. They have next submitted that the



cheated loan aspirants have stated that it was the petitioner, who came to them along with the informant to receive money from them. In paragraph no. 49 of the case diary, Ranjit Kumar Ram, in paragraph no. 67 of the case diary, Uma Devi and Dharmendra Ram, in paragraph no. 6 of the supplementary case diary, Arti Devi, in paragraph no. 7 of the supplementary case diary, Sarita Devi, in paragraph no. 8 of the supplementary case diary, Nazma Begum and in paragraph no. 9 of the supplementary case diary, Vishwanath Manjhi have clearly stated before the Investigating Officer that Amit Kumar Singh along with Ranjit Kumar Ram had met and asked them to pay money on the basis of false allurements like for grant of loan, opening poultry farming, fisheries, agriculture, etc. and as per words given by the petitioner and the informant, they paid the amount in cash as well as through online mode to the bank accounts, indicated by the petitioner.

It appears that the complicity of the petitioner emerged during course of investigation. He cheated a number of innocent villagers who are loan aspirants and he changed his identity in order to save his skin from criminal cases which transpires from the supplementary affidavit of the Investigating Officer. The relevant portion of the supplementary affidavit,



filed by the Investigating Officer, is being quoted herein below:-

“(i) One Identity Card shown to be issued by NABARD (para-28 of the supplementary case diary) in which photograph of petitioner printed in the name of Amit Kumar Singh.

The true photo copy of the aforesaid Identity Card of NABARD is attached herewith and marked as Annexure-A to which affidavit.

(ii) That AADHAAR no.- 902462676086 shown in the name of Amit Kumar Singh (para-28 of the supplementary case diary) in which photograph and date of birth is same and common with the petitioner's another AADHAAR no.-506195215250 in the name of Abhay Kumar Gautam. And further, the SDPO, Sadar vide memo no.-4182 dated 12.8.2021 (para- 18 of case diary) mentioned the name of accused no.-1 as Amit Kumar Singh @ Abhay Kumar Gautam and others and further directed to arrest the accused after verification of name, address, age. Later-on, a witness- Vishwanath Manjhi also produced AADHAAR no.- 902462676086 shown in the name of



Amit Kumar Singh to the police who vide seizure list dated 25.10.2022 (para- 10 of supplementary case diary) received the same.

The address mentioned in AADHAAR of Amit Kumar Singh also found incorrect during verification from the concerned Dumaria Ghat police station through letter-cum-information slip dated 15.12.2022 as well as certificate dated 15.12.2022 of Mukhiya of Gram Panchayat- Rampur Khajuria.”

Considering the above-mentioned facts and circumstances as well as the material emerged during course of investigation, I do not find it an appropriate case for grant of bail, which is hereby rejected.

(Nawneet Kumar Pandey, J)

Kundan/Nirmal

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