

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15199 of 2024

Arising Out of PS. Case No.-643 Year-2022 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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1. Panchlal Chaurasiya, Son of Narayan Chaurasiya, Resident of Village-Tetarabad, Chandpura, P.S. - Gangour, District - Khagaria, Bihar
 2. Rajendra Chaurasiya, Son of Bhogi Chaurasiya, Resident of Village-Tetarabad, Chandpura, P.S. - Gangour, District - Khagaria, Bihar
 3. Mithun Kumar @ Mithun Kumar Chaurasiya, Son of Bharat Kumar, Resident of Village-Chandra Nagar Ranko, P.S.-Muffasil, District- Khagaria, Bihar

... .. Petitioners

Versus

1. The State of Bihar
2. Mithilesh Kumar, Son of Late Janardan Mishra, Resident of Village - Waisa, P.S. - Parbatta, District - Khagaria, Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s : Ms. Shrishti Singh, Advocate
For the Opposite Party/s : Mr. Choubey Jawahar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 14-03-2024 Heard learned counsel for the petitioners and

learned Additional Public Prosecutor for the State.

2. The accused/petitioners are named in the complaint and apprehending their arrest in connection with Complaint Case No.643C of 2022 in which cognizance has been taken for the offence punishable under Sections 420, 406, 467, 468, 471 and 120-B of the Indian Penal Code.

3. Allegation against the petitioners is to cheat



complainant by creating forged documents and also to commit breach of trust by not paying amount of Rs.20 lakhs as salary and also not to return the maturity amount to different customers including complainant as specified in complaint petition itself. As per the complainant, the company is a private Ltd company, duly registered under the Indian Companies Act, 1956 (as amended 2013) engaged with business of financial activities like term deposit etc.

4. Learned counsel appearing on behalf of the petitioners submitted that complainant has failed to implicate company, which is a Pvt. Ltd. company, duly registered under the Act as an accused and, as such, entire implication appears bad in the eyes of law in view of legal report of Hon'ble Supreme Court rendered in the matter of **Sushil Sethi and Another vs. State of Arunachal Pradesh and Ors.** reported in **(2020) 3 SCC 240**. It is submitted that the petitioners have been implicated out of concocted story and previous enmities. Explaining the reason behind the implication, it is submitted by learned counsel that the complainant borrow money against interest from the



company, namely, M/s. Jivan Bandhan Proficient Nidhi Ltd., where petitioner nos. 1 and 2 are 2.5% share-holders and petitioner no.3 is not associated in any capacity. When company raised a demand through legal notice as sent on 30.09.2020 and 25.01.2021 through Advocate, the present false complaint case was lodged. It is submitted that initially the Director of the company, namely, Ravindra Chaurasiya lodged a complaint case on 01.06.2022, having No.388(C) of 2022 at Gogari, Khagaria against one Manoj, Vijay and Pancham Rajak, where petitioners stand as witnesses and now in present case, which was brought by complainant, said accused persons, namely, Manoj and Vijay now stand as witnesses, suggest *prima facie* an ulterior and oblique motive *qua* company and persons, who are working on behalf of company, like petitioners. It is further pointed out by learned counsel that petitioners are neither Director nor working in managerial capacity and are also not holding any decision making post and moreover the allegation as raised through the complaint *qua* petitioners is appearing very much general and omnibus, without specifying any active involvement



which may *prima facie* suggest cheating or criminal breach of trust.

5. Learned APP opposes the prayer of bail.

6. In view of aforesaid factual submissions, as the entire allegation is available against company, which has not been arrayed as an accused through complaint petition, where admittedly, petitioners not appears holding any decision making post and also by taking note of enmities/ulterior motive, as discussed above, accordingly, all three, above-named, petitioners are directed to be released on bail, in the event of their arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria in connection with Complaint Case No.643C of 2022, subject to the conditions as laid down under Section 438(2) of the CrPC.

(Chandra Shekhar Jha, J.)

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