

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20094 of 2024

Arising Out of PS. Case No.-1034 Year-2015 Thana- SARAN COMPLAINT CASE District-
Saran

Mahendra Kumar Mohan son of Late Manwendra Nath Rai Mohalla- ambika
Bhawani Colony Bhagwan Bazar Ps- Bhagwan Bazar Dist- Saran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Rajeev Ranjan Verma son of Gujeshwar Prasad Verma Moh- Dahiyawan Ps-
Chapra Shahar Dist- Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Suryakant Kumar,
For the Opposite Party/s : Mr.Satya Nand Shukla

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 15-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection
with C. No. 1034 of 2015, Tr. No. 512 of 2023 for the offences
punishable u/ss 167 and 406 of the Indian Penal Code.

3. As per the prosecution case, the Complainant has a
CC Account in Punjab National Bank, Hathuwa Market, Chapra
Branch in which Rs. 1,29,588/- was deducted on 30.06.2008 by
the Bank without informing the Complainant. The Complainant
obtained a calculation sheet of interest from the Charter
Accountant and submitted it to the bank according to which Rs.
81092 /- excess interest was deducted by the bank. It is further
alleged that the Complainant requested the bank official to refund
the excess amount of Rs. 81092 /- along with interest in his



account but it was not deposited. Then the Complainant sent a legal notice to the bank for a refund of the excess amount but the bank did not refund it. Thereafter, the Complainant lodged the present case against the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that the Centralized Bank System (CBS) was introduced in Banking in 2006 and due to system glitch an excess amount of Rs. 81092 /- was deducted from the account of the Complainant which was brought to the notice of the Bank Authorities by the Complainant hence, after verification, Rs. 81092/- was subsequently credited in the account of the Complainant on 15.12.2011. It is further submitted that it is a civil nature of case related to the recovery of money. Learned counsel has further submitted that the Complainant is not settling his account by paying the due loan amount and interest over it but is putting pressure on the bank authorities to close the aforementioned loan amount without making any payment. The petitioner has no concern with the alleged offence. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State as well as learned counsel has for informant have vehemently opposed the prayer for anticipatory bail of the petitioner. Learned counsel has further



submitted that the instant anticipatory bail application is not maintainable as the process u/s 82 of the Cr.P.C. has already been issued against the petitioner. The petitioner is declared a proclaimed offender. Learned counsel for the informant has further relied upon the case of ***(Abhishek vs. State of Maharashtra (2022) 14 SCC 529)*** where it was held that “*As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an ‘absconder’ and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence.*” Reliance has further been placed on the decisions of ***(Lavesh vs. State (NCT of Delhi) (2012) 8 SCC 730, Adri Dharan Das vs. State of W.B. (2005) 4 SCC 303)*** and ***(Prem Shankar Prasad vs. State of Bihar 2021 SCC Online SCC 955)*** and in the case of ***(State of Haryana vs. Dharamraj (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 LiveLaw (SC) 739: 2023 INSC 784)*** disposed of 29.08.2023 wherein the Hon’ble Apex Court has held that: “*Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case.*” It is further submitted that the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail



may be considered. Learned counsel for the informant has further relied on the judgment of **Srikant Upadhyay & State of Bihar & Anr. SLP (Crl) No. 7940 of 2023.**

6. Considering the aforesaid facts and circumstances of the case as well as the fact that the process u/s 82 has been issued against the petitioner, accordingly, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with direction to the petitioner to surrender to the Court below within a period of six weeks from the date of this order and the Court below will consider the prayer of the bail of the petitioner in accordance with law without being prejudice by this order.

7. The application stands disposed of.

(Chandra Prakash Singh, J)

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