IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44424 of 2024

Arising Out of PS. Case No.-451 Year-2022 Thana- SIKARPUR District- West Champaran

==

Umesh Prasad, S/o Amirchand Prasad, R/o ward no. 15, Kanu tola, P.S. - Sugauli, Distt. - East Champaran

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==

Appearance :
For the Petitioner/s : Mr. Rudrank Shivam Singh, Adv.
For the Opposite Party/s : Mr.Mohammad Sufyan, APP

==

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 12-09-2024 Heard learned counsel for the petitioner, learned counsel for the State as well as learned counsel for the informant.

2. The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 406, 420, 467, 468 of the Indian Penal Code.

3. The learned counsel for the petitioner submits that inadvertently at para 3, it has been pleaded that petitioner is a person with clean antecedent when he had antecedent of one case. It is next submitted that in sums and substance, the informant alleges that he is an Advocate and also runs an NGO in the name of Swarg of which he is the Secretary, further, the NGO bagged a contract from Narkatiyaganj Nagar Parishad for collecting door to door garbage for the period 2019-20, for

which an agreement was entered and work order was issued by the Parishad on 27.02.2019. It is next alleged that petitioner started working as a caretaker since 01.03.2019, but informant received complaint regarding petitioner that he is not doing the work properly, thus he cleared the dues of the petitioner by crediting an amount of Rs. 36,42,000/- in the account of Umesh General Store through RTGS and also entered into an agreement with the petitioner with a view to save himself but again he came to know that petitioner was not working properly and subsequently, he came to know that petitioner has misappropriated the aforesaid amount by forging the signature of Raj Kishore Prasad and when the petitioner was asked to produce the bill and voucher regarding payment, he threatened the informant of dire consequences.

4. The learned counsel for the petitioner further submits that the petitioner has been falsely implicated in the instant case by the informant. It is further submitted even the allegation as alleged in the F.I.R. is vague, it is next submitted that it absolutely does not stand to reason that why an agreement was entered in between the petitioner and the informant after the informant paid an amount of Rs. 36,42,000/- in the account of the informant through RTGS, for saving himself. It is further

submitted that if informant had paid the entire amount in the account of the petitioner, as claimed on the ground that the petitioner was not working properly then where was the occasion for him to allow the petitioner to work again, as would manifest from the F.I.R. itself. It is also submitted that informant is an Advocate and he is running an NGO which is a profitable organization and as a lawyer the informant cannot be associated with an organization which earns profit.

5. The learned counsel further submits that the petitioner has been falsely implicated for the reason that for the work rendered by the petitioner in terms of the contract, the informant owed an amount of Rs. 27,25,530/- for the work done by the petitioner for the period 01.09.2019 to 10.01.2020. Further the informant had issued two Cheques of Rs. 7 lacs and 10 lacs in favour of the petitioner which on presentation for encashment bounced, hence, the petitioner send a legal notice on 11.02.2020 for bouncing of the cheques but the same was not replied, thereafter, the petitioner filed Complaint Case No. 448 of 2020 under Section 323, 406, 470, 420, 468, 467, 504 and 506 of the I.P.C. read with Section 138 of the N.I. Act on 02.03.2020, thereafter, cognizance was taken and summons were issued on the informant, it is next submitted that after the

summons were issued, the informant paid some amount of the cheque and thereafter instituted the instant F.I.R. on 01.06.2022. It is further submitted that the instant F.I.R. has been instituted only with a view to coerce the petitioner into submission so that he does not pursue with Complaint Case No. 448 of 2020. It is also submitted that informant was aware of the fact that a complaint case had been instituted against him, but then the said fact has been concealed in the F.I.R.

6. Learned A.P.P. and learned Advocate appearing on behalf of the informant opposes the anticipatory bail application but then are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that petitioner has filed a Complaint Case No. 448 of 2020 against the informant and cognizance has been taken and summons have been issued.

7. Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below withing a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions

Judge, IX, West Champaran in connection with Shikarpur P. S Case No. 451 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

8. The applications stands allowed.

(Satyavrat Verma, J)

sanjeev/-

U		T	