

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.56547 of 2024

Arising Out of PS. Case No.-442 Year-2023 Thana- CHHATAUNI District- East Champaran

1. Dhiraj Kumar @ Desh Bandhu Kumar S/o Nagandra Prasad Yadav
Residence of Village-Bokane, PS-Patahi, District-East Champaran at
Motihari
 2. Bhardul Kumar @ Abhishek Kumar S/o Bablu Prasad R/o Mohalla -
Chhatauni, P.S. - Chatauni, Distt.- East Champaran at Motihari
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 57315 of 2024

Arising Out of PS. Case No.-442 Year-2023 Thana- CHHATAUNI District- East Champaran

Badal Pandey @ Kanhaiya Kumar Pandey @ Kanhaiya Kumar Son of
Rameshwar Pandey Resident of Mohalla- Amar Chhatauni (Bazar), P.S.-
Chhatauni, District-East Champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 56547 of 2024)

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.

For the Opposite Party/s : Mr. Bharat Bhushan, APP

(In CRIMINAL MISCELLANEOUS No. 57315 of 2024)

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 13-12-2024 Heard Mr. Shayama Kant Singh, learned counsel for

the petitioner, Mr. Bharat Bhushan representing the State in Cr.

Misc. No. 56547 of 2024 and Mr. Jitendra Kumar Singh, learned

APP in Cr. Misc. No. 57315 of 2024.

2. The petitioners apprehend their arrest in connection

with Chhatauni P.S. Case No. 442 of 2023 for the offence

registered under sections 406, 420, 409, 34 of the Indian Penal

Code lodged on 13.09.2023 by the informant Neeraj Kumar.

3. As per the prosecution story, the informant alleged



that after executing a sale-deed, he had Rs. 40,50,000/- with him, wanted to deposit it in some Bank, contacted one Abhisekh Kumar who asked him to go to Awanish Kumar. Awanish Kumar, thereafter, demanded Rs. 25,000/- as facilitation fee for which Rs. 18,000/- was paid through Pay-Phone. However, no effort was taken by him as the informant went to the Axis Bank, Motihari but as it was 5:00 PM, the same could not be deposited. He came out and talked to Abhisekh Kumar who made him talk to Dhiraj Kumar who in turn, demanded Rs. 1,50,000/- for providing him security. He was later forced to ride a motorcycle but to his fortune, the police intercepted them whereafter, the accused fled away. He had strong suspicion that this was done by Abhisekh Kumar, Awanish Kumar and others. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that it was only due to confusion, this FIR has been lodged. As a facilitation fee, he had taken Rs. 18,000/- but since there was delay in reaching the Bank, to ensure that he safely reaches home along with the money, he asked his associates to take him home. However, he was under suspicion that they planned to loot and accordingly, the FIR.

5. His further submission is that irrespective of the outcome of the present case and/or accepting the allegation, all the three petitioners intend to pay Rs. 10,000/- each (totaling Rs.



30,000) through Demand Draft issued by the local State Bank of India branch to be submitted before the 'NAZRAT' of the concerned Court to be handed over to the informant after checking the credential. The last submission is that one Awanish Kumar has been extended anticipatory bail in Cr. Misc. No. 13910 of 2024 on 12.03.2024.

6. Let the same be kept on record.

7. Learned APPs on both the cases opposes the prayer submitting that firstly, the bank should have entertained huge amount of Rs. 40,50,000/- despite the delay as a normal customer cannot move out with half a crore amount. However, they refused which forced the accused persons to exploit to informant.

8. Though allegation is there, this Court finds force in the submission of learned APPs that it was clear dereliction of duty on the part of the bank officials that an innocent customer was forced to go out of the bank with Rs. 40,50,000/- which resulted into him even accepting the offer of Rs. 1,50,000/- to facilitate his safe return journey. The bank officials were duty-bound to inform the local police to give protection/cover to the customer/informant. They failed on every count, the Court observes. The Senior Officials of the Axis Bank are duty-bound to take note of this fact as to how the officials of the Axis Bank, Motihari did not entertain the amount of the informant putting him in trouble.



9. So far as the case is concerned, considering the submissions put forward by the parties as also that the petitioners are students having no criminal antecedent, a similar placed co-accused has been extended relief, in that background, this Court is inclined to grant them the anticipatory bail with conditions subject to payment of Rs. 10,000/- each (totaling Rs. 30,000/-) by the three petitioners to Niraj Kumar as undertaken by the learned counsel to be paid by Demand Draft of local State Bank of India to be submitted to the Trial Court.

10. Let the petitioners in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M. Motihari, District-East Champaran in connection with Chhatauni P.S. Case No. 442 of 2023 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family members/relatives of the petitioners, who shall provide official document to show his *bona fide*;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail



bond by the Trial court itself;

(iii) the petitioners shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

11. Let the copy of the order go to the Nodal Officer, Axis Bank Limited, Circle Officer, 2nd Floor, Plot No. 136, Patliputra Colony, Near Sai Mandir, Patna (Bihar) 800013 for perusal and immediate action as alleged involvement of their employees have come in this case.

(Rajiv Roy, J)

Vijay Singh/-

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