

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57269 of 2024

Arising Out of PS. Case No.-774 Year-2023 Thana- BIDUPUR District- Vaishali

Chandra Bhushan Kumar @ Tunilal Son of Late Vishwanath Rai R/V-
Village- Majhauri, P.s.- Bidupur, Distt.- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Branch Manager, The Vaishali District Central Co-operative Bank Ltd.
Hajipur, Vaishali Vaishali, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra, Mr. Pratibha Srivastava, Advocates
For the Opposite Party/s	:	Mr. Mukesh Kumar Singh, APP
For the Informant	:	Mr. Raja Ram, Adv.
For the Bank	:	Mr. Bindhyachal Rai, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 20-11-2024 Heard Mr. Ashok Kumar Mishra, learned counsel
for the petitioner, Mr. Raja Ram Rai, for the informant, Mr.
Bindhyachal Rai for the Bank and the State.

2. The petitioner is in judicial custody in connection
with Bidupur P.S. Case No. 774 of 2023 for the offences
punishable under Sections 406, 409, 420/34 of the IPC lodged
on 29.12.2023 by the informant, Upendra Pd. Singh.

3. As per the prosecution story, the informant alleged
that Rs. 58,00,000/- (Fifty eight lacs) was allotted for the
construction of the godown and the amount was to be released
in installments, the allegation is that the petitioner, who at that
time, was serving as the Chairman withdrew Rs. 1 Lakh against



the rules and regulations for the purpose of payment to the labourers and another Rs. 16,40,000/- without the signature of the Manager in favour of Jay Maa Ambe Enterprises which is owned by him. He was directed to make payment and upon failure to do so, the case.

4. Learned counsel for the petitioner submits that being the Chairman, he made *bona fide* payment but since there was some procedural lapse, he diligently started returning the amount in installments inasmuch as till date, he has made payment of Rs. 8,78,000/- besides Rs. 1 Lakh cash.

5. As recorded above, the Bank is represented by Mr. Bindhyachal Rai and he has provided the latest balance sheet of the payment made by the petitioner, according to which, besides Rs. 1 Lakh, he has paid four installments of Rs. 1,65,000/- each on 27.06.2024, 29.07.2024, 27.08.2024 and lastly on 26.09.2024. Additional slip shows that he has made payment of 1,65,000/- on 28.10.2024. Let the payment slips be kept on record.

6. Learned counsel for the petitioner submits that not only he will be clearing the payment of November 2024 and submit a receipt at the time of execution of bail bond, if granted bail, he shall ensure that every month, the payment shall be



made, failure to do so, the aggrieved party will be free to take steps for cancellation of the bail bond.

7. Learned counsel for the informant though opposes the prayer submitting that being a Chairman, he misused his position and transferred the amount to his own concern, he accepts the fact that the money is being returned.

8. Considering the submissions put forward by the parties as also the fact that the petitioner is making regular payment, an undertaking has already been made that he shall be paying the amount every month failing which the prosecution shall take immediate steps for cancellation of his bail bond, this Court is inclined to extend him the privilege of bail, subject to the condition that he will be clearing the payment of November 2024 and submit a receipt at the time of execution of bail bond.

9. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned CJM, Vaishali, Hajipur in connection with aforesaid P.S. Case subject to the following conditions:

(i) one of the bailors should be the family member of the petitioner who shall provide official document to show his bona fide;



(ii) the petitioner 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 petitioner 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;

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

(Rajiv Roy, J)

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