

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61285 of 2023

Arising Out of PS. Case No.-40 Year-2023 Thana- TIKAPATTI District- Purnia

1. UMESH SINGH S/O DHANRAJ SINGH
2. YOGESH KUMAR S/O UMESH SINGH
BOTH ARE RESIDENTS OF VILLAGE- UKHRAURA MANIKCHAK
THAKURBARI TOLA, P.S- ALAULI, DISTT.- KHAGARIA.
3. MITHILESH KUMAR @ MITHLESH MANDAL S/O BRIJNANDAN
MANDAL R/O VILLAGE- SALMARI, P.S- AZAMNAGAR, DISTT.-
KATIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 61451 of 2023

Arising Out of PS. Case No.-40 Year-2023 Thana- TIKAPATTI District- Purnia

ALOK KUMAR @ ALOK KUMAR SINGH @ PINKU S/O UMESH
SINGH R/O VILLAGE- UKHRAURA MANIKCHAK THAKURBARI
TOLA, P.S- ALAULI, DISTT.- KHAGARIA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 61285 of 2023)
For the Petitioner/s : Mr. Dilip Kumar, Advocate
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP
(In CRIMINAL MISCELLANEOUS No. 61451 of 2023)
For the Petitioner/s : Mr. Dilip Kumar, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 12 18-09-2024 1. Heard learned counsel for the petitioners, learned
APP for the State and learned counsel for the informant.
2. The petitioners have preferred this application for



grant of anticipatory bail apprehending their arrest in connection with Tikapatti P.S. Case no.40 of 2023 registered under sections 420, 406, 467, 468, 471 and 34 of the Indian Penal Code.

3. As per the prosecution case, the informant states that the petitioner Alok Kumar who projected himself to be working in private capacity in the Post Office, got the informant to invest on the greed of getting higher rate of interest. He got the informant to transfer in different installments a total sum of Rs.76 lacs in his three accounts and also took Rs.10 lacs through his brother Yogesh Kumar, father Umesh Singh, maternal uncle Brijnandan Mandal and cousin brother Mithilesh Kumar. He returned a sum of Rs.20.5 lacs. The informant states that all the amounts have been transferred from his own account. It is further stated that on the informant asking for his money back Alok Kumar started avoiding him and ultimately also gave him forged Kisan Vikas Patra saying that he would get the money on maturity of the same. The informant has not been paid his amount and thus the FIR.

4. Learned counsel for the petitioners submitted that so far as the other petitioners besides Alok Kumar are concerned, they have been falsely implicated in the case only for the reason of their being related to the said Alok Kumar. They have neither



any concern with the informant or his investment nor with the transaction that he had done with Alok Kumar. They have no criminal antecedent. With respect to Alok Kumar, it is submitted by learned counsel for the petitioner that he is only an agent in the Post Office who works on commission basis. This petitioner has already returned back Rs.20.5 lacs prior to institution of the present case. Referring to the supplementary affidavits filed in the case, it is further submitted that as directed by the informant, the petitioner deposited different sums in the accounts of his sister, brother-in-law, brother and the two sons of his sister, the total of which comes to Rs.44,12,000/-. It is submitted that the dispute is purely civil in nature relating to business transaction. Instead of the informant filing a civil suit, the instant FIR has been filed which is an abuse of the process of the Court.

5. The application for bail is opposed by learned APP for the state and learned counsel for the informant. Learned counsel for the informant submits that an amount of Rs.76 lacs was transferred from the Bank account of the informant to the Bank account of the petitioner Alok Kumar. There is absolute inconsistency in the statement of the petitioner in different affidavits and as stated in the FIR, a sum of Rs.20.5 lacs only has been returned. It is thus submitted that a clear case of



cheating and criminal breach of trust is made out against the petitioners and it is not a case for grant of anticipatory bail.

6. Having heard learned counsel for the parties and having perused the materials on record, it transpires that a sum much more than Rs.76 lacs as stated by the informant in the FIR has been transferred to the Bank account of Alok Kumar. The informant in support of his contention has brought on record the statements of his accounts. On the other hand the petitioner in his main petition states that he has already returned Rs.20.5 lacs to the informant. In the supplementary affidavit filed, the claim of the petitioner is that he has returned a total of Rs.43,78,300/ and in the second supplementary affidavit, his claim with respect to the amount returned rises to Rs.44,12,000/. Though there is no direct allegation against the other petitioners accepting the contentions raised in the different supplementary affidavits filed, still even as per the petitioner's case, Alok Kumar has still not returned a sum of Rs.31,88,000/.

7. In view of the facts and circumstances stated herein above and there being no direct material with supporting documents to substantiate the allegations against the other petitioners, the prayer for bail of petitioners in Cr. Misc. no.61285 of 2023 are allowed. It is directed that the petitioners



in Cr. Misc. no.61285 of 2023 namely Umesh Singh, Yogesh Kumar and Mithilesh Kumar @ Mithlesh Mandal, in the event of their arrest or surrender before the learned Court below within a period of four weeks, be released on anticipatory bail in connection with Tikapatti P.S. Case no.40 of 2023 on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnia, subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. In view of the facts and circumstances of the case together with the material available on record, as discussed above, the prayer for anticipatory bail of the petitioner Alok Kumar @ Alok Kumar Singh @ Pinku is rejected. He is directed to surrender in the learned Court below within a period of four weeks.

(Partha Sarthy, J)

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