IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67907 of 2024

Arising Out of PS. Case No.-632 Year-2023 Thana- KHAGARIA District- Khagaria

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Abhishek Kumar Son of Hari Narayan Rajak Residents of Village- Nuranga ward no. 09, Piprar, P.S.- Chautham, District- Khagaria

... ... Petitioner/s

Versus

1. The State of Bihar
2. Bank of India through Branch Manager Awadh complex, Rajendra Chauk, P.S- Khagaria, District- Khagaria

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Shubham Sourav
For the Opposite Party/s : Mr. Ram Sevak Choudhary

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

3 18-12-2024 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and the learned counsel appearing on behalf of the Bank, Mr. Amresh Kumar.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 419, 420, 467 and 471 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and in sum and substance, the allegation is that fraudulently from the account of DDC, Khagaria an amount of Rs. 51,67,220/- was withdrawn through 11 cheques and credited in the account no. 462410110003610 of Shantanu Kumar and Shantanu Kumar

withdrew an amount of Rs. 50,90,000/- in cash through 13 transactions, further an amount of Rs. 24 Lakhs was withdrawn from the account of Shantanu Kumar in between 28.01.2022 to 11.02.2022.

4. Learned counsel for the petitioner submits that petitioner is not named in the FIR and his name transpired during the course of investigation being Head Cashier of Khagaria Branch, Bank of India. It is further submitted that during the course of investigation, against the petitioner it transpired that petitioner without verifying transferred Rs. 4 Lakhs from account no. 462410210000029 to account no. 462410110003610, further the petitioner also made a transfer of Rs. 2 Lakhs in the account of Manju Devi mother of Brajesh Kumar.

5. The learned counsel for the petitioner submits that petitioner, being Head Cashier, is not entitled to pass any cheque above Rs. 50,000/-. It is next submitted that the moment a cheque is presented before the petitioner of an amount more than Rs. 50,000/-, the same requires validation of his superior authority. It is next submitted that without validation of his superior authority, the cheque cannot be passed by the petitioner, it is next submitted that as far as transferring of Rs. 2

Lakhs in the account of Manju Devi is alleged, the petitioner does not deny the same for the reason that Brajesh who is son of Manju Devi is also Head Clerk in the Bank of India and petitioner for his personal necessity had taken a loan of Rs. 2 Lakhs from him, but then Brajesh had given Rs. 2 Lakhs to the petitioner from his account in the account of the petitioner and the petitioner returned Rs. 2 Lakhs in the account of Manju Devi which was a joint account with Brajesh, as such, it is submitted that if petitioner was involved in the occurrence, in that event, the transactions would not have been made through bank account. It is also submitted that the vigilance of the bank also investigated the case and gave clean chit to the petitioner, as would manifest from the pleadings made in the supplementary affidavit.

6. Learned APP for the State and the learned counsel appearing on behalf of the Bank oppose the prayer for anticipatory bail of the petitioner and learned counsel appearing on behalf of the bank submits that a counter affidavit has been filed on behalf of the bank, the counter affidavit is not on record, but then the Court permitted the learned counsel to make submission from his counter affidavit and it was submitted that in the counter affidavit, it has been pleaded that during the

course of inquiry, a specific query was made from the petitioner that he passed the cheque of Rs. 4 Lakhs without seeking validation of his superior authorities to which petitioner accepted, on which the learned counsel appearing on behalf of the petitioner submits that without validation of the cheque by the superior authority of the petitioner, the same could not have been encashed, further it is also submitted that in the counter affidavit, oral statement of the petitioner is recorded when vigilance of the bank has given him a clean chit though non vigilance inquiry of the bank is pending.

7. After hearing the learned counsel for the parties, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Khagariya P.S. Case No. 632 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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