IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71540 of 2023

Arising Out of PS. Case No.-183 Year-2023 Thana- RAGHOPUR District- Vaishali

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Kumar Kausalendra @ Kumar Kaushlendra, Male, aged about 36 years, S/O Awadh Kishor Prasad, Resident of Village- Katahar, P.S- Sultanganj, District- Bhagalpur.

... ... Petitioner

Versus

The State of Bihar

... ... Opposite Party

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Appearance :

For the Petitioner	:	M/S. Bharat Bhushan and Vidyapati, Advocates
For the Bank	:	M/S. Prabhakar Jha and Amitesh Jha, Advocates
For the State	:	Mrs. Sharda Kumari, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 02-04-2024 Heard learned counsel for the petitioner, learned counsel for the Bank and learned Additional Public Prosecutor for the State.

2. The petitioner was apprehending his arrest and later on vide order dated 07.11.2023, he was released provisionally by another Co-ordinate Bench of this Court in connection with Raghopur P.S. Case No. 183 of 2023 dated 02.08.2023 registered for the offences punishable under Sections 406, 409 and 420 read with 34 of the Indian Penal Code.

3. As per the prosecution case, from 07.03.2020 to 14.01.2020, Rs. 27,70,000/- was withdrawn illegally without consent of 30 Jeevika Samooh from their loan account by Ex-

Branch Manager, Heman Kumar Sinha, Ex-office Assistant, Kumar Kaushlendra (petitioner) and the co-accused Abhishek Kumar and after lapse of one year, the loan amount was paid on different dates outside the Bank campus to the concerned Jeevika Samooh. It is further alleged that on 12.01.2021, the subsidy amount of Rs. 3,36,000/- of two dairy loan account nos. 153/1060 and 153/1077, which was deposited by Cheque No. 168298 and the amount of Rs. 21795/- which was deposited by the account holder Smt. Ram Dulari Devi by Cheque No. 055284 dated 30.01.2021 transferred on 20.03.2021 in the account of Bank's business correspondent Deen Dayal Rai by the named accused persons. It is further alleged that after withdrawal of Rs. 21,795/- on 07.04.2021 from the Account No. 103/14022 of account holder Ravi Chaudhary, the said amount was transferred in the account of Smt. Ram Dulari Devi. It is further alleged that when the matter of subsidy came in the knowledge, the amount was deposited in the concerned loan account from the account of Bank's business correspondent Deen Dayal Rai. So the accused persons committed criminal breach of trust of Rs. 31,27,795/-.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case.

Learned counsel has further submitted that certain irregularities were found by some audit conducted by the audit team but the petitioner is not involved in such irregularities being the Assistant in the Bank and alleges that the Branch Manager is the one who is involved in such large scale irregularities and he has misappropriated the public money, amounting to Rs. 31,27,795/-. As the allegation has been made against the Branch Manager and other officials, who are enjoying the higher post and they have not taken any action during the financial years, 2019-20, 2020-21 and 2021-22, particularly with respect to period 07.03.2020 to 14.01.2022, the petitioner cannot be held guilty for the aforesaid. The petitioner has neither cheated anyone nor misappropriated the money and further submitted that it is a case of mismanagement of money. It is further submitted that other co-accused has been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 73443 of 2023 under order dated 29.11.2023. There is a delay in lodging the F.I.R. The petitioner has clean antecedent as stated in para 3 of the bail petition.

5. Learned A.P.P. for the State and learned counsel for the Bank have vehemently opposed the confirmation of anticipatory bail of the petitioner.

6. Considering the aforesaid facts and circumstances of the case, the provisional bail granted to the petitioner, vide order dated 07.11.2023 by another Co-ordinate Bench, is hereby confirmed with further condition:

(i). The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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