IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52726 of 2025

Arising Out of PS. Case No.-138 Year-2024 Thana- Shivnarayanpur District- Bhagalpur

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Pankaj Kumar Sinha, (M), aged about 56 years, S/o- Late Kamleshwari Prasad Sinha, Resident of Vill- Rampur Jaitipur PS-Shiv Narayanpur Dist-Bhagalpur

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Vivekanand Vivek, Advocate
For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP
For the informant : Mr. Bhola Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

5 10-12-2025 Heard Mr. Vivekanand Vivek, learned counsel appearing on behalf of the petitioner; Mr. Pradeep Narain Kumar, learned APP for the State and Mr. Bhola Prasad, learned counsel appearing on behalf of informant.

2. The petitioner seeks pre-arrest bail in connection with Shiv Narayanpur P.S. Case No. 138 of 2024 registered for the offence(s) punishable under Sections 315/316(2)/316(4)/316(5)/318(3)/3(5) of BNS.

3. As per the allegation made in the FIR, the petitioner allegedly committed forgery of Rs.57,31,814.88/- belonging to deceased Bijli Devi/ aunt of the informant.

4. Learned counsel appearing on behalf of the petitioner submitted that informant is nephew of the

deceased/Bijli Devi. Petitioner claims to be nominee of said Bijli Devi. It is also admitted that the petitioner has received the aforesaid amount of Rs.57,31,814.88/-. Learned counsel further submitted that the petitioner being the nominee is not the sole beneficiary of the said amount, rather the same amount has to be distributed in accordance with law and in that view, before the petitioner could take any steps in this regard, the informant being the nephew of the said deceased Bijli Devi, who had died on 17.09.2024, has lodged the present criminal case without availing the civil recourse. Petitioner has clean antecedent.

5. Mr. Bhola Prasad, learned counsel, has tendered his appearance on behalf of the informant and has submitted that the petitioner forged the death certificate of the deceased Bijli Devi and received Rs.57,31,814.88/- from her account. Informant being the nephew is the actual owner of the entire amount, as first heir of deceased Bijli Devi as per the Hindu Succession Act and, as such, petitioner has committed fraud and duped the entire amount, to which he is entitled for. He further informs that the deceased Bijli Devi had issued three cheques dated 13.09.2024 for same amount but in absence of any money in the account of late Bijli Devi, the said cheques were dishonoured by the bank with a note “insufficient fund” on the

very next date, i.e., on 14.09.2014. Subsequent to the same, the money was transferred on 24.10.2024 in the account of the petitioner and, as such, fraudulent withdrawal of the money in connivance with the bank was done and, as such, petitioner don’t deserve to be released on pre-arrest bail.

6.Learned APP for the State also vehemently opposed the prayer for grant of pre-arrest bail.

7. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR, I find that the dispute relates to withdrawal of Rs.57,31,814.88/- by the petitioner, who is the nominee of late Bijli Devi. It is well settled by the Apex Court that nominee is a person appointed by the account holder to receive the account fund but the nominee or nominees is/are not the ultimate owner, unless they are also an heir. It appears that the FIR has been lodged by the informant without understanding the said principle of law hurriedly on the alleged ground that forgery has been committed by the petitioner. It is admitted by the parties that death of the account holder took place on 17.09.2024 and for any reason a cheque which was tendered by the deceased Bijli Devi in favour of the informant on 13.09.2024, which was presented on the same date, the petitioner cannot be held liable

for the endorsement made on the cheque that the money could not be presented into the account of the informant due to insufficient fund. The petitioner cannot be held liable for any illegal act or any fraudulent act of the Branch Manager concerned. The petitioner being the nominee and he has admitted that he is son of the sister of late Bijli Devi, is entitled to receive the amount. Law in this regard is well settled by the Apex Court in case of ***Ram Chander Talwar v. Devender Kumar Talwar*,** reported in, ***(2010) 10 SCC 67,*** wherein in paragraph no. 5, the Apex court has held as under:

> *"**5.** Section 45-ZA(2) merely puts the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositor so far as the depositor's account is concerned. But it by no stretch of imagination makes the nominee the owner of the money lying in the account. It needs to be remembered that the Banking Regulation Act is enacted to consolidate and amend the law relating to banking. It is in no way concerned with the question of succession. All the monies receivable by the nominee by virtue of Section 45-ZA(2) would, therefore, form part of the estate of the deceased depositor and devolve according to the rule of succession to which the depositor may be governed."*

8. In view of the aforesaid preposition of law as laid down by the Apex Court in case of ***Ram Chander Talwar (Supra)***, I am of the opinion that petitioner has, *prima facie,* made out a case to be released on pre-arrest bail.

9. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender

before the learned District Court within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM-IX/or in charge, Bhagalpur / Concerned Court in connection with Shiv Narayanpur P.S. Case No. 138 of 2024, subject to the conditions as laid down under Section 482(2) of the BNSS.

10. The learned District Court is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases, as what has been stated in paragraph no.3 of the bail application, this order will automatically lose its force.

11. **However, the parties, if so advise, may avail civil remedies.**

(Purnendu Singh, J)

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