IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49420 of 2025

Arising Out of PS. Case No.-944 Year-2018 Thana- COMPLAINT CASE - PATNA CITY District- Patna

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Praveen Kumar Sinha S/o Late Rajeshwar Prasad Sinha @ Late Rajeshwar Prasad R/o MIG, 106, Hanuman Nagar PS - Patrakar Nagar, Dist. - Patna

... ... Petitioner/s

Versus

1. The State of Bihar
2. Ravi Kumar S/o Shri Shyam Babu Chaudhari R/o Moh. - Alamganj Chawki Kedarnath Math, PS – Alamganj, Dist. Patna
3. The Branch Manager, Axis Bank S.P. Verma Road, Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Satyabir Bharti, Sr. Advocate
		Mr. Abhishek Anand, Advocate
		Ms. Kanupriya, Advocate
		Ms. Aastha Prakash, Advocate
For the State	:	Mr. Brajendra Nath Pandey, A.P.P.
For the Complainant	:	Mr. Manoj Kumar Sinha, Advocate
For the Bank	:	Mr. Viveka Nand Singh, Advocate
		Mr. Amit Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

5 25-03-2026 Heard Mr. Satyabir Bharti, learned Senior Counsel for the petitioner, learned A.P.P. for the State, Mr. Manoj Kumar Sinha, learned counsel appearing on behalf of the complainant and learned counsel appearing on behalf of the Axis Bank.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

3. Learned Senior Counsel appearing on behalf of the

petitioner submits that petitioner has been falsely implicated in the instant case by the complainant based on a complaint case. It is further submitted that the complainant alleges that he is engaged in liquor business at Jharkhand and is known to the petitioner. Further, the complainant sought help of the petitioner in seeking refund of his income tax on which the petitioner took his Aadhaar, PAN etc. but when the refund was not credited in his account, the complainant inquired when he came to know that an amount of Rs.45,50,000/- was credited in an account of Axis Bank which was opened using his Aadhaar Card and the amount has been withdrawn, accordingly, he confronted the petitioner and the petitioner became ready to return an amount of Rs.10 lakhs but later resiled.

4. Learned Senior Counsel for the petitioner submits that in the instant case, Axis Bank was impleaded as opposite party no. 3 and a counter affidavit on behalf of the Bank has been filed.

5. Learned Senior Counsel further submits that the instant complaint case has been instituted by the complainant at the behest of one Sunil Kumar who was business partner of the petitioner for operating liquor business at Ranchi and the complainant except for operating the license in his name had no

role to paly and, as such, was a name giver. It is next submitted that on account of some dispute in between the petitioner and Sunil Kumar, the instant false criminal case came to be instituted against the petitioner alleging that he opened a fake bank account in the name of the complainant in Axis Bank. It is also submitted that when petitioner received bailable warrant of arrest, he came to know that a complaint case has been instituted against him on 09.08.2018 and on inquiry, it transpired that the account, in dispute, has been opened on 25.07.2013 and in the said account Rs.7 lakhs and odd was credited on 16.10.2014, thereafter, Rs.17,70,000/- and odd was credited on 09.02.2016 and an amount of Rs.24,65,187/- was credited on 17.06.2017, thus, an amount of Rs.45,50,000/- was credited by way of refund from income tax along with some other amount.

6. Learned Senior Counsel asserts and submits that the account was never opened by the petitioner, rather it is a genuine account in the name of the complainant as from the said account an amount of Rs.45 lakhs and odd has been credited in the housing loan account of the petitioner and the said amount of Rs.45 lakhs has been credited in the housing loan account of the petitioner by way of cheque issued by the complainant. It is futher submitted that if the complainant was aggrieved by the

fact that his income tax return is not being credited in his genuine account in that event the complainant would have inquired from the Income Tax Department as to why his income tax return is not being credited in his account but since the complainant was well aware of the fact that the income tax refund is being credited in his account at Axis Bank, as such, he never made any endeavours to verify the same. It is next submitted that since petitioner and Sunil Kumar were in a business relationhsip and the complainant was operating the license in the name of Sunil Kumar, as such, the complainant used to issue cheques with respect to the account in dispute based on which the aforesaid amount was credited in the housing loan account of the petitioner. It is also submitted that had the petitioner been involved in the occurrence of opening a fake account in the Axis Bank in the name of the complainant in that event petitioner would have ensured that an amount of Rs.45 lakhs from the said account does not get directly credited in his housing loan account for the reason that at any subsequent stage if it comes to the notice of the complainant that a fake account in his name was opened with the Axis Bank in that event the petitioner would have been easily implicated for the reason that from fake account of the complainant an amount of

Rs.45 lakhs was credited in his housing loan account. It is, thus, submitted that no prudent person would indulge in committing an act creating evidence against himself. It is further submitted that the complaint case was filed in the year 2018 but the complainant closed the account in the year 2019. It is, thus, submitted that when it came to the notice of the complainant in the year 2018 itself that the account with the Axis Bank is a fake account then why the account was closed in the year 2019 as would manifest from the counter affidavit of the Bank. It is also submitted that had the petitioner been involved in opening a fake account in the name of the complainant at Axis Bank with an intent of swindling his income tax refund amount in that event the petitioner would not have allowed the account to continue for so long nor would have allowed an amount of Rs.45 lakhs to be credited in his housing loan account rather after swindling the income tax refund amount would have closed the account. It is further submitted that an amount of Rs.49 lakhs and odd by way of income tax refund was credited in the said fake account of the complainant in between 2014 to 17.06.2017 but then it does appear probable that a person whose income tax return in such huge amount is not being credited in his own account would not have realized for so long as to why the income tax return is not being credited in his genuine account which also points to the fact that the complainant was aware that the account is genuine but subsequently at the behest of Sunil Kumar the instant complaint case came to be instituted on account of differences which had arisen between the petitioner and Sunil Kumar with regard to the liquor business. It is next submitted that Sunil Kumar is a witness in the complaint case filed by the complainant. It is also submitted that had an FIR been instituted perhaps the police could have investigated the case but deliberately a complaint case was instituted with an intent that cognizance is taken based on the evidence brought on record by the complainant and his two witnesses, as the learned Magistrat, at the time of taking cognizance, does not have the requisite material on record except for what is presented by the complainant and his witnesses. It is further submited that in the complaint case a vague pleading has been made that the complainant had gone to Alamganj Police Station for instituting an FIR but on the advice of the police the instant complaint case came to be instituted but then the complaint case is completely silent with regard to the fact as to when the complainant approached the police.

7. It is asserted and submitted that the allegation as

alleged required a proper investigation and, as such, the complainant ought to have approached the Superintendent of Police if the concerned police station was refusing to institute an FIR. It is next submitted that petitioner is disputing the allegation as alleged in the complaint based on facts as recorded hereinabove. It is also submitted that in the trial if the complainant is not able to prove his case and the petitioner under fear of arrest parts with the fanciful demand of the complainant in that event what will happen. It is further submitted that a criminal case has been instituted only with a view to coerce the petitioner into submission so that the petitioner parts with the fanciful demand of the complainant. It is next submitted that when petitioner came to be implicated in a false criminal case, out of fear he was ready to settle the dispute and thus had offerred Rs.20 lakhs and the complainant was even ready to settle the dispute at that amount though complainant alleges that petitioner misappropriated Rs.45 lakhs and odd, but after receiving proper legal advice the petitioner resiled. It is also submitted that the Hon’ble Supreme Court has also held that Criminal Courts should not act as a recovery agent.

8. Learned counsel appearing on behalf of the Bank submits that a counter affidavit has been filed on behalf of the

Bank wherein a stand has been taken that the account is genuine and not fake but then the account was closed in the year 2019.

9. Learned A.P.P. for the State and learned counsel appearing on behalf of the complainant opposed the prayer for anticipatory bail of the petitioner but then are not in a position to rebut the submissions of the learned Senior Counsel appearing on behalf of the petitioner as to why the complainant from 2014 till 17.06.2017 did not inquire from the Income Tax Department as to why his refunds are not being credited in his genuine account, also the submission that if the petitioner was aware that the account was fake whether he would have got an amount of Rs.45 lakhs credited in his housing loan account from the fake account in the name of the complainant and, thus, would have created evidence against himself.

10. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned Senior Counsel appearing on behalf of the petitioner, thus, the petitioner, above-named, in the event of his arrest or surrender 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 Complaint Case No. 944 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C./482(2) of the B.N.S.S.

(Satyavrat Verma, J)

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