
(2023) 05 PAT CK 0029

Patna High Court

Case No: Criminal Miscellaneous No. 71689 Of 2021

Nirbhay Kumar Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: May 10, 2023

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 120B, 406, 420, 467, 468, 471, 504, 506
- Bihar Protection of Interest of Depositors (In Financial Establishment) Act, 2002 - Section 3, 15(4)

Hon'ble Judges: Nawneet Kumar Pandey, J

Bench: Single Bench

Advocate: Yogesh Chandra Verma, Mukesh Kumar, Rajeev Nayan, V.N.P Sinha, Soni Shrivastava

Final Decision: Dismissed

Judgement

I have already heard Mr. Yogesh Chandra Verma, the learned Senior counsel for the petitioner as well as Mr. Rajiv Nayan, the learned Additional

Public Prosecutor for the State and also heard Mr. V.N.P. Sinha, the learned Senior counsel, assisted by Mrs. Soni Shrivastava, the learned counsel

for the Economic Offences Unit.

The petitioner is seeking bail in connection with Madhuban P.S. Case No. 218 of 2021, registered for offence punishable under Sections 406, 420, 504,

506/34 of the Indian Penal Code. Later on, Sections 120(B), 467, 468, 471 of the Indian Penal Code along with Section 3 of the Bihar Protection of

Interest of Depositors (In Financial Establishment) Act, 2002 was added.

The allegation against the petitioner is that he was kingpin of an organized gang, which committed cheating and forgery and thereby made wrongful

gain of crores of hard earned money of a number of rustic, innocent, illiterate women of the village. As per allegation, the petitioner along with his wife, co-accused Meena Devi and his sons Deepak Kumar and Raushan Kumar, in a deep conspiracy, allured the innocent village women to form a group of 20-20 women and each group was directed to select a group leader. Each member of group had to contribute Rs.22,500/-. Each member of group was allured to have a gain of huge profit. The accused persons opened their company by fake name of Mother Teresa Future Foundation Trust, Chennai. After collecting Rs. 4,50,000,00/-(rupees four crores, fifty lakhs), the accused persons neither returned the principal amount nor the interest and whenever the innocent investors demanded their hard earned money, they threatened to kill.

Mr. Verma, the learned Senior counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. By relying a decision of Honâ€™ble Apex Court, reported in AIR 1982 S.C. 949, State of West Bengal & others Vs. Swapan Kumar Guha & others, he has submitted further that if the investigation is complete, the personal liberty of the petitioner should not be curtailed. He has also submitted that this Court has granted bail to Meena Devi, Deepak Kumar and Raushan Kumar in Cr. Misc. No. 71516 of 2021 and the case of the petitioner is on similar footing. He has submitted next that an independent Act, i.e. the Bihar Protection of Interest of Depositors (In Financial Establishment) Act, 2002, is there to deal with such type of crime and the maximum punishment in that is of three years and general provisions of the Indian Penal Code are not applicable in this case. He has next submitted that the petitioner or the group never cheated the investors. It was a group of investors and each and every member of group is responsible for sustaining loss or profit, as they are the independent stake holder of the group. He has also submitted that in another case, the petitioner has been granted bail in Cr. Misc. No. 8112 of 2022.

On the other hand, Mr. Sinha, the learned Senior counsel for the Economic Offences Unit has opposed the prayer for bail and submitted that the petitioner is kingpin of the group, who cheated and misappropriated the crores of hard earned money of innocent, illiterate rustic village women and his

group members allured the women residing in village to deposit Rs.22,500/- and when the small contribution turned into huge money, they

misappropriated it. He has submitted also that the Investigating Officer has jotted down the statements of the victims, from paragraph nos. 136 to 265

of the case diary it appears that all these witnesses have categorically stated that the petitioner and his group members cheated them. He has also

submitted that so far as the Bihar Protection of Interest of Depositors (In Financial Establishment) Act, 2002 is concerned, the maximum punishment

is not 3 years, but that is 10 years as per Section 3 (proviso) of that Act. By drawing my attention towards Section 15 (4) of that Act, he has submitted

that while trying the offence under this Act, the Court may try an offence other than the offence under this Act with which the accused may be

charged at the same trial under the Code of Criminal Procedure, 1973. He has also submitted that Meena Devi, Deepak Kumar and Raushan Kumar,

who are wife and sons of the petitioner, were granted bail on the undertaking given by the petitioner that he would return the money to those victim

women, but still he has not returned their money.

There is allegation that the petitioner, his wife and two sons have cheated the innocent village women and misappropriated their hard earned money,

as such, the petitioner does not deserve the privileges of bail. Accordingly his prayer for bail is rejected.

The learned counsel for Economic Offences Unit, Mr. Sinha has submitted that the petitioner was granted provisional bail in another case by this

Court in Cr. Misc. No. 8112/2022 on the basis of his assurance that he would refund the entire money collected by him. His wife and sons were also

granted bail vide Criminal Misc. No. 71516/2021 on the basis of assurance given by the petitioner, but still he did not adhere to his words.

In this respect, I am of the view that no order can be passed in this petition as those matters are separate. The Economic Offences Unit as well as the

State may take remedies provided under law.