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Court : Patna

Decided On : Nov-02-2006

Judge : Syed Md. Mahfooz Alam, J.

Acts : Bihar and Orissa Co-operative Societies Act; Indian Penal Code (IPC) - Sections 406 and 420

Appeal No. : Cr. Misc. No. 37112 of 2006

Appellant : Amar Nath Das

Respondent : The State of Bihar

Judgement :

Syed Md. Mahfooz Alam, J.

1. This is an application for grant of regular bail filed on behalf of petitioner, Amar Nath Das, an employee of the Punjab National Bank posted at P.N.B. Main Bazar Branch, Katihar, and who is an accused in Complaint Case No. 499 of 2005 instituted under Sections 406 and 420 of the Indian Penal Code.

2. At the very outset, I would like to say that the case appears to be a simple case of misappropriation of Rs. 49,750/- but I have no hesitation to say that the case is of serious nature as the total amount misappropriated by the petitioner and others exceeds rupees one crore. Moreover, the very pertinent question which arises for

consideration is :

Whether the petitioner and others who are employees of a public sector undertaking i.e. Punjab National Bank, can be permitted to run a financial organisation involving general public in the name of Karmchari Sahkari Samitti and obtain financial benefit from such organization

3. As per the admitted facts, the petitioner is an employee of the Punjab National Bank. The petitioner and some other employees of Punjab National Bank of Katihar formed a co-operative society in the name of Punjab National Bank Karamchari Bachat Evam Sakh Swablambi Sahkari Samittee Limited, Katihar (hereinafter referred to as 'the Society'). The Society was registered under the Bihar & Orissa Co-operative Societies Act. The petitioner, who is accused No. 2, was appointed as Treasurer of the said Society whereas accused No. 1 Bijay Kumar Jaiswal was appointed as Secretary of the Society. Other accused i.e. accused Nos. 3 to 12, who are also employees of the Punjab National Bank, were given different assignments in the said Society. The said Co-operative Society started functioning and as per the allegation, the Society approached the general public including the complainant, Nawin Mohan Prasad and persuaded them to deposit their savings with the Society. On persuasion, the complainant and others started depositing the amount under daily deposit scheme and in this way, the complainant deposited altogether Rs. 49,750/- with the Society but the amount was not repaid to the complainant even on demand, hence complaint was filed.

4. During the course of argument, the learned Advocate of the petitioner informed the Court that the deposit exceeded rupees one crore and several persons had instituted similar type of criminal cases against the petitioner and other office bearers of the Society but in all those cases they had already been allowed either regular bail or anticipatory bail and so, the petitioner also deserves to be enlarged on bail.

5. It has been conceded by the learned Advocate of the complainant that many cases of similar nature were instituted by several persons against the office bearers of the Society and in many cases, the accused persons were granted either anticipatory bail or regular bail but the learned advocate raised a vital

question with regard to the involvement of the bank employees in running parallel banking organisation and collecting money from different customers in the name of the small savings.

6. I am of the view that the question is of national importance as the petitioner and other accused persons, who are mostly employees of the Punjab National Bank, are virtually running a parallel banking organisation in the name of Punjab National Bank Karamchari Bachat Ewam Sakh Swablambi Sahkari Sammitee Limited, Katihar and through the said Sammittee, they are collecting money from the small depositors and channelising the same in unproductive works thereby causing loss to the national income. This is definitely a matter of concern as I have been told that the employees of several other nationalised banks were also running similar type of parallel banking organisation in the name of Karmachari Sahakari Sammittee. I am of the opinion that an employe of the Bank, who is in active service, cannot be permitted to run such type of Society for gaining income from other sources. They cannot be allowed to do economic activity for their personal gain and the scope of the activity cannot be enlarged outside the Bank involving general public. I am, therefore, of the view that the Central Government and the Reserve Bank of India should enquire into the matter and decide as to whether the employees of the nationalised bank can be allowed to run parallel financial institution in the name of the co-operative societies involving the general public at large.

7. Under the circumstances mentioned above, I am of the opinion that it is not a simple case of misappropriation of the amount of Rs. 49,750/- but the total amount which has not been paid to the depositors exceeds rupees one crore (as I have been told) and as such, I am not inclined to enlarge the petitioner on bail and hence, his prayer for bail is hereby rejected.

8. Let a copy of this order be sent to the Governor, Reserve Bank of India, Mumbai and also to the Secretary, Finance Department, Government of India, New Delhi for information and necessary action, if any.