

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2810 of 2015

Arising Out of PS.Case No. -51 Year- 2014 Thana -MURAR District- BUXAR

Sipahi Ram son of late Magaru Ram, resident of village Koransari (Garahi Tola), Post + PS. Koran Sari, District Buxar (Bihar)

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.4407 of 2015

Arising Out of PS.Case No. -51 Year- 2014 Thana -MURAR District- BUXAR

Birendra Kumar Singh @ Birendra Yadav s/o late Manraj Yadav, resident of Village Nachap, P.s. Murar, District Buxar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.19447 of 2015

Arising Out of PS.Case No. -51 Year- 2014 Thana -MURAR District- BUXAR

Brij Kumar Pandey s/o late Jagarnath Pandey, resident of village and Post Office Raghunathpur, Police Station Brahampur, District Buxar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 21-05-2015 Heard learned counsel for the parties.

2. Having regard to the nature of allegation against the petitioners for the offences punishable under Sections-408, 409,420/34 of the Indian Penal Code for misappropriation of sum of Rs. 31,80,000/- as



per the report of the Block Development Officer, Chaugai, while this Court was not inclined to grant anticipatory bail to the either petitioner Birendra Kumar Singh @ Birendra Yadav, the present Mukhiya or to petitioner Sipahi Ram, the Panchayat Secretary of Gram Panchayat, Nachap because yesterday only four applications of Mukhiya and Panchayat Secretary of the same district relating to a huge scam of purchase of solar lights in different Panchayat of Buxar district has been rejected by common order dated 19.05.2015 passed in Criminal Miscellaneous No. 51125 of 2014 and its analogous cases.

3. Let it be noted that the allegation is very clear and blatant against the petitioner being Mukhia and Panchayat Secretaries in different panchayat of Buxar district to be party in purchase scam of solar lights which could only be brought to notice, only on a direction given by this Court itself in a Public Interest Litigation case. The solar lights as per Government



instructions were to be purchased only from the authorized agency by the BRED A/BELTRON but then these Mukhiyas and Panchayat Sevaks without following those standard specification had purchased solar lights of substandard quality like in the present case, where the solar lights were purchased without even having make of name of any company. These solar lights subsequently in fact were also existing in course of inspection and in this manner heavy loss of Rs. 31,80,000/- only in this case and likewise crores of rupees has been caused to the Government Exchequer only in Buxar district.

4. The only reason that this Court today would be prepared to grant privilege of anticipatory bail to the petitioner Birendra Kumar Singh @ Birendra Yadav, and to petitioner Sipahi Ram is their counsel on taking instructions have voluntarily offered to pay the sum of Rs. 1,36,000/- each attributable to him them in the report of B.D.O. Chaughai in the total loss of Rs.

31,80,000/-.



5. Next would be the case of the petitioner Brij Kumar Pandey. Mr. Jitendra Kumar Roy, learned counsel appearing for Brij Kumar Pandey, has explained that Brij Kumar Pandey was not posted in Nachap Gram Panchayat in 2008 to 2012 when such purchase was made and has taken in this regard this Court to the same report of the Block Development Officer, Chaughai, gone to show it is only the two petitioners i.e. Brij Kumar Pandey and Sipahi Ram as well as Udai Narain, Mukhiya and Vijay Shankar, Panchayat Secretary who had been found to have defalcated the amount of Rs. 31,80,000/- in the report of the Block Development Officer, Chaughai dated 28.09.2014 and the name of petitioner Brij Kumar Pandey does not find therein.

6. In that view of the matter, this Court would also find Brij Kumar Pandey for being granted the privilege of anticipatory bail but it is made clear that



this order cannot be used for seeking privilege of anticipatory bail in other cases pending against petitioner Brij Kumar Pandey as mentioned in paragraph no. 3 in his bail application Cr. Miscellaneous No. 19447 of 2015 relating to his role played in the same scam of purchase of solar lights in other Panchayat of Buxar district where he was found responsible for causing loss to Government exchequer in course of purchase of Solar Lamps.

7. In that view of the matter, if the petitioner **namely, Sipahi Ram, Birendra Kr Singh and Brij Kumar Pandey**, would surrender within a period of four weeks from today, they would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of **Chief Judicial Magistrate, Buxar** in connection with **Murar P.S. Case No. 51 of 2014**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following

conditions:-

(i) A bank-draft of Rs. 1,36,000/- each shall be furnished by petitioner Sipahi Ram and Birendra Kumar Singh in the name of Collector of Buxar district and the said amount will be credited to the account of the Collector of Buxar district which would of course remain subject to the final result of the trial. The petitioner Brij Kumar Pandey, however, will not be required to deposit any amount for the present in this case.

(ii) That both the bailors will be close relative of the petitioners who will give an affidavit giving genealogy as to how they are related with the petitioners. The bailors will also undertake to inform the Court if there is any change in the address of the petitioners.

(iii) That the bailors shall also state on affidavit that they will inform the Court concerned if the petitioners are implicated in any



other case of similar nature after their release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of their bail on the ground of misuse.

(iv) That the petitioners will give an undertaking that they will receive the police papers on the given date and be present on the date fixed for charge and if they fail to do so on two given dates and delays the trial in any manner, their bail will be liable to be cancelled for reasons of misuse.

(v) That the petitioners will be well represented on each and every date of trial and if they fail to do so on two consecutive dates, their bail will be liable to be cancelled on this ground alone.

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(Mihir Kumar Jha, J)