

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23177 of 2015

Arising Out of PS.Case No. -28 Year- 2015 Thana -NAUGACHIA District- BHAGALPUR

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Vishwanath Prasad S/o Late Ramautar Prasad Resident of Mohalla Rajiv Nagar, Road No. 19, Madhu Niwas, Police Station Rajiv Nagar in the District/Town of Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Ranjeet Kumar, Advocate.

For the Opposite Party : Mr. A.M.P. Mehta (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

6 05-11-2015 Heard both sides.

The petitioner apprehends his arrest in a case registered for the offence punishable under Section 409 of the Indian Penal Code.

The assistant superintendent, sub-division prison Naugachia in pursuance of order no. 5 dated 22.02.2015, the Additional Secretary-cum-Director Administration Prison and Reforms Service, Patna directed vide Letter No. 5493 and reminder letter no. 6589 dated 19.12.2014 and letter no. 1137 dated 19.02.2015, the FIR was lodged alleging therein that Vishwanath Prasad, the then superintendent of Special Central Jail, Bhagalpur and Pradip Kumar Jha have defaulted a sum of Rs. 34,15,806/- as 311 male prisoners and 5 women prisoners were

transferred to the Special Central Jail, Bhagalpur on 19.07.2004 and 20.07.2004, respectively and have remained in Bhagalpur Central Jail for 30 months, but the allotment given to Naugachia Sub-jail was illegally withdrawn by the petitioner and Pradip Kumar Jha without prior authority from the finance department.

Learned counsel for the petitioner submits that on 27th September, 2003 by Letter No. 364, the petitioner was made in-charge of sub-jail Naugachia and he was authorized to withdraw the amount allotted to Naugachia sub-jail as drawing disbursing officer. The performance audit was held and it was detected that the petitioner during his posting as in-charge sub-jail Naugachia as well as the superintendent Special Central Jail, Bhagalpur withdrew Rs. 33 lacs without sanction from the department. Three men committee was constituted and after receiving the show cause from the petitioner, the committee found that only Rs. 7 lacs and odd was lying due against the petitioner. It is further submitted that the petitioner again filed a show cause vide Annexure-6, and on such the petitioner was directed to return Rs. 1,44,139.80 and after adjustment of the rupees the petitioner deposited the entire amount of Rs. 1,44,000/- which would apparent from the vouchers annexed as Annexure-10 series.

Learned APP however opposed the prayer for

anticipatory bail.

On perusal of the record, it appears that the FIR was lodged after finding all the three men committee report Annexure-11 annexed with the supplementary affidavit. In the FIR itself, it is very much alleged that the petitioner being the superintendent of Central Jail, Bhagalpur was made in-charge of sub-jail Naugachia, but he was not at all authorized to withdraw the allotment given for expenditure of sub-jail Naugachia during the period when the prisoners were transferred from Naugachia sub-jail to Central Jail, Bhagalpur. The auditors performed audit found that the petitioner without authority of the department withdrew Rs. 33 lacs and odd between 08.07.2003 to 13.05.2005 during that period the prisoners were transferred to Central Jail, Bhagalpur. The auditor has very specifically found that there was no order for withdrawing the amount allotted for sub-jail Naugachia and it is done as financial illegality. On the report of the audit the three men committee was constituted and the committee also found that in the stock register of Naugachia sub-jail "transfer to Special Central Jail", Bhagalpur was written. No stock register was found nor any signature was made on any of the page. The auditor did not find any vouchers for spending any money. Later on during the course of enquiry before three men committee the committee found different

financial illegalities.

Considering the facts aforesaid, I am not inclined to
enlarge the petitioner above named on anticipatory bail.
Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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