

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49308 of 2014

Arising Out of PS.Case No. -261 Year- 2013 Thana -THAKURGANJ District- KISANGANJ

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1. Sumant Kumar Das S/O;Sri Hemendra Kumar Das Lower Division Clerk
district Planning Office Collectorate, Kishanganj
2. Md.Irtaza Alam S/O;Late Mujtab Aalam Head Clerk district Planning
Office Collectorate, Kishanganj

.... Petitioner/s

Versus

1. The State of Bihar Through Vigilance Department Secretariat, Patna

.... Opposite Party/s

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Appearance :

- For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Sanjay Kunar
Mr. Nagadeo Choubey
Mr. Diwakar Singh
- For the Opposite Party/s : Mr. Rabindra Kumar A. C. to Mr. Ramakant
Sharma
- For the State Mr. Akshay Lal Pandit

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 07-05-2015 Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the Vigilance learned Additional
Public Prosecutor for the State.

The petitioners apprehend their arrest in connection with
Thakurganj P.S. Case No. 261/2013 registered for the offences
punishable under Sections 409/420/468/120(B) of the Indian Penal
Code.

Learned counsel for the petitioners submits that petitioner
No. 1 Sumant Kumar Das is the Lower Division Clerk in the
District Planning Office at Kishanganj where as petitioner No. 2
Md. Irtaza Alam is the Head Clerk functioning in the said office.



Learned counsel for the petitioners submits that from perusal of the First Information Report itself indicates that the entire allegation as made therein are only against the Block Development Officer of Thakurganj Block. So far as these petitioners are concerned, they are merely functionaries of the District Planning Officer who act on the report sent by the Block Development Officer from the Block regarding the scheme which was to be implemented after receipt of fund from the District Planning Office.

Learned counsel for the petitioner further submits that the only allegation which has surfaced subsequently and during the course of investigation is that these petitioners had placed forth the file relating to the release of fund from the District Planning Office on having received the necessary certificates and other relevant papers for construction of the Aganbadi Centres within the block. It is their case that they have only to place forth before the concerned Planning Officer for necessary orders after making available all documents which have been received from the Block Office. It is submitted that in the wake of such facts and circumstances, these petitioners are being unnecessarily harassed. Learned counsel for the petitioner has further drawn my attention to Annexure-7 which is an order passed by a bench of this Court in

Cr. Misc. No. 19455 of 2014 whereby and whereunder vide order dated 13.10.2014, this Court has been pleased to extend the privilege of anticipatory bail to Peter Minz, the Block Development Officer in question against whom the First Information Report has been lodged.

Learned counsel for the Vigilance has vehemently urged before me that in various paragraphs of the case diary, it has come on record that the petitioner No. 1 and 2 had been instrumental in placing the records before the District Planning Officer for release of the fund in pursuance of the scheme as placed before the Planning Office by the Block Development Officer of Thakurganj Block.

The contention of learned counsel for Vigilance is that all files were routed through the office of these two functionaries and, therefore, they too, are instrumental in loss and misuse of public money. However, in reply to a query made by this court as to whether there was any method or mechanism by which cross-checking ought to have been done by the District Planning Office and who was assigned the task of undertaking the said exercise, learned counsel for the Vigilance is unable to pinpoint the same. Further, he has been unable to demonstrate as to how once the Block Development Officer had put up the scheme, these clerks in

the District Planning Office could have returned back the same without there being any report from any agency within or from outside so as to negate the certificates given by the Block Development Officer concerned.

Having perused the materials available on records and having considered the submissions made by learned counsel for the petitioners and also learned counsel for the Vigilance and also the fact that the benefit of anticipatory bail has already been extended to the Block Development Officer, namely, Peter Minz, let the petitioners, in the event of their arrest / surrender within a period of two weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the each amount to the satisfaction of the learned Special Judge, Vigilance II, Patna in connection with Special Case No. 39/14 arising out of Thakurganj P.S. Case No. 261/2013 subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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