

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21745 of 2015

Arising Out of PS.Case No. -34 Year- 2015 Thana -PALASI District- ARRARIA

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1. Samsa Khatoon, w/o Soyeb Alam, r/v Dehri Tola, Jugan Bhag, P.O. and P.S. Palasi, District- Araria, Presently Mukhiya of Gram Panchayat Raj, Chahatpur, Block-Palasi, District-Araria.
 2. Onkar Nath Thakur, s/o Sri Sachchidanand Thakur, r/m Rahika Tola, Ward No. 17, P.O. and P.S. Araria, District-Araria.
 3. Nirmala Kumari, w/o Soyeb Alam, r/v Dehri Tola, Jugan Bhag, P.O. and P.S. Palasi, District-Araria, presently working as Panchayat Teacher under Gram Panchayat Raj, Chahatpur, Block-Palasi, District-Araria.

.... Petitioner/s

Versus

The State of Bihar Through The Vigilance

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandan, Adv.

For the Opposite Party/s : Mr. Ramakant Sharma(L/O(I.C.Vig))

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

8 27-11-2015 Heard both sides.

The petitioners apprehend their arrest in Palasi P.S. Case No. 34/2015, registered for the offences punishable under Sections 420, 406, 409, 467, 468, 471 of the Indian Penal Code and Section 13 and 15 of Prevention of Corruption Act.

The District Magistrate inspected different schemes on 26.12.2014 of Gram Panchayat Chahatpur and found that schemes for which money was withdrawn by petitioner no. 1 Samsa Khatoon, Mukhiya of Gram Panchayat were not completed. Accordingly, show cause was issued and FIR was directed to be filed.



Learned counsel for the petitioners submits that from the report of the District Magistrate which is at page 25 of the FIR it would appear that the District Magistrate did not find any work done on physical verification, but the Block Development Officer made physical verification of different schemes and found substantial work done which would appear from page 21 to 23 of the FIR.

It is submitted that now the entire work has been done, but no report is submitted. Petitioner no. 2, who is a supplier, is not an agent of any of the schemes. Petitioner no. 3 Smt. Nirmala Kumari is a teacher and agent of some of the schemes and she is only alleged to have defalcated Rs. 86,000/- under two schemes; 1. 2013-2014 and 2. 2013-2014.

Learned Spl. P.P., however, opposed the prayer for anticipatory bail and submitted that altogether Rs. 35,02,725/- was withdrawn and defalcated primarily by the Mukhiya Petitioner no. 1 Samsa Khatoon along with other accused persons.

It is further submitted that Petitioner no. 2 Onkar Nath Thakur is not an agent, but he was supplier and different articles were found on the place of occurrence said to have been supplied by Petitioner no. 2. It appears that Samsa Khatoon Petitioner no. 1 is the Mukhiya of Gram Panchayat and he has withdrawn the entire

amount of different schemes of 2011-2012, 2012-2013 and 2013-2014 but did not spend any money nor work was found on physical verification.

Considering the facts aforesaid, I am not inclined to enlarge petitioner no. 1 Samsa Khatoon above named on anticipatory bail. Accordingly, the same is rejected.

So far as the case of Petitioner no. 2 Onkar Nath Thakur is concerned, he is not an agent but supplier and he has already supplied the materials for which he received money. Petitioner no. 3 Nirmala Kumari is an agent of two schemes; one 2013-2014 of 13th Financial Scheme in which Rs. 4,72,000/- was withdrawn and Nirmala Kumari did the work of Rs. 4,29,290. The work of Rs. 42,710/- was lying due against her and similarly Scheme no. 2 of 2013-2014, the work of Rs. 2,56,680/- was done out of Rs. 3,00,000/- and the work of Rs. 43,320/- was lying due against her. Petitioner no. 3 Nirmala Kumari is ready to deposit Rs. 86,000/-, subject to the result of the case, within six weeks from the date of receipt of this order.

Accordingly, Petitioner no. 2 Onkar Nath Thakur and Petitioner no. 3 Nirmala Kumari in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, are

directed to be enlarged on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance-II, Patna in connection with Palasi P.S. Case No. 34/2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

If Petitioner no. 3 fails to deposit the aforesaid amount of Rs. 86,000/- within six weeks, learned court below shall cancel the bail bond of Petitioner no.3.

(Prabhat Kumar Jha, J.)

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