

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38204 of 2015

Arising Out of PS.Case No. -42 Year- 1991 Thana -KHODAWANPUR District- BEGUSARAI

Kuber Chandra Singh, Son of Late Rajeshwar Singh, Resident of Nav Vikas Colony, Phase-II, Ashiana Nagar, Patna

.... Petitioner/s

Versus

The State of Bihar through Vigilance, Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 22-09-2015

Heard learned counsels for the petitioner

and the Vigilance.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 467, 471, 472, 419, 420 and 120B of the Indian Penal Code and sections 5(1) and 13(2) read with section 13(1)(d) of the Prevention of Corruption Act.

The prosecution case is that five thousand smokeless furnace (Chulha) were ordered to be constructed in 1989-90 by one Shyam Prasad, Secretary, Mahila Kalyan Mandal, Rako, Khagaria, who submitted a report about completion of five thousand smokeless furnace to the District Magistrate, Begusarai which was counter signed by the District Magistrate and later on it was sent to BREDA through letter No.



300 dated 30.03.1990. On the basis of said report Shyam Prasad, Secretary claimed Rs.35,44,400/- out of which Rs.21,07,200/- was paid by the then DDC in March, 1990 to Shyam Prasad. Subsequently, Shyam Prasad submitted mounting pressure on the authorities for making payment of remaining due amount to the tune of Rs.14,37,200/-. In the meantime, an information came that a team of Ministry of Energy of Central Government and BREDA shall make enquiry about construction of the smokeless furnace but the team could not get the list or report from the D.D.O., Begusarai which created doubt. After that physical verification was made and during course of verification it was found that only 964 smokeless furnace were constructed against the claim of five thousand. Subsequently, it was found that there was fictitious entry in the beneficiaries list, particularly, the persons, who were not resident of the village were included in the beneficiary list and thereby Rs.20,39,720/- was misappropriated.

It is submitted by learned counsel for the petitioner that the petitioner was BDO at the relevant time (now retired) and entire payment was made with the counter signature of the then District Magistrate and only accusation against the petitioner that he failed to submit the list of

beneficiaries or the desired report. It is further submitted that Hari Kishore Prasad, the then District Magistrate, has been granted anticipatory bail on 03.11.2011 vide Cr. Misc. No. 30325 of 2011 by a Co-ordinate Bench of this Court.

Considering the fact that the case was registered in 1991 and the investigation has concluded long back, this Court is not inclined to grant anticipatory bail to the petitioner.

It is expected from the learned court below to consider the prayer for regular bail of the petitioner, if the petitioner surrenders before the learned court below within a period of six weeks from today in connection with Special Case No. 10 of 2000 arising out of Khodabandpur P.S. Case No. 42 of 1991 pending in the court of learned Special Judge, Vigilance-II, Patna keeping in view of the fact that in similar circumstances vide Cr. Misc. Nos. 52192 of 2014 and 307 of 2015 a Co-ordinate Bench of this Court directed for release of the co-accused persons, which reads as follows:- ***“In that view of the matter, the prayer for anticipatory bail of the petitioner is hereby rejected and the petitioners are directed to surrender in the court below and if they do, their prayer for regular bail shall be considered by the court below, by taking into account***

that if any co-accused having similar allegation has already been granted the privilege of regular bail, the petitioners shall also be released on bail but subject to the specific condition of their attending the trial on day-to-day basis and their bail bond being liable to be cancelled on account of their failure to remain present in course of trial even for a single day.”

With the aforesaid observation, this application is disposed of.

(Dinesh Kumar Singh, J)

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