

Case No :BA 0000003/2015

Party Name : CHITRA SEN ON BEHALF OF ACCD. TUSHAR KANTI SEN Vs THE STATE OF TRIPURA

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This application for grant of bail has been filed by the petitioner Smt. Chitra Sen on behalf of the accused Sri Tushar Kanti Sen who is one of the accused in Bishalgarh P.S. case No.135 of 2014.

The FIR in question relates to a case wherein it is alleged that huge amounts meant for use under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) have been misused by the BDO and other officials. As far as the present accused is concerned, the only allegation at present against him is that he was entrusted with a sum of Rs.50,000/- which was to be used for repair of Miah Para High School. The allegation is that he did not use the funds to repair the school but misappropriated the funds and used them for his own purpose.

It would be pertinent to mention that departmental proceedings have also been initiated against the accused with regard to the same allegations and the accused in reply to the said notice has stated as follows:-

"To
The District Magistrate & Collector,
Sepahijala District,
Sepahijala, Tripura.

Ref.: Memo No.F.4(15)-DM/ SPJ/ ESTT/2012/11-13, Dt. 24.09.14.

Sir,

With due respect with reference to the above referred Memo issued by your good office I submit the following lines for your kind consideration and necessary favourable action.

1. That, above referred Memo was served to my sister on 09.10.14. From my sister I got the Memo on 10.10.14.

2. That, as per instruction of B.D.O., Bishalgarh R.D. Block Rs.45,080/- was paid to Chhabir Khan in connection with Kamalasagar Vadra Mela, 2014. As I was instructed by the B.D.O., Bishalgarh R.D. Block I had to comply with such instruction. I had no choice or other alternative. In due compliance with the instruction of B.D.O., Bishalgarh R.D. Block, after obtaining money receipt, from Chhabir Khan, Rs.45,080/- had been paid to him.

3. That, the rest amount of Rs.50,000/-, excluding the amount of Rs.45,080/- had been utilized in connection with Kamalasagar Bhadra Mela, 2014, in due compliance with the instruction of the B.D.O., Bishalgarh R.D. Block.

4. That, B.D.O., Bishalgarh R.D. Block instructed me to utilize Rs.50,000/- which was allotted for maintenance of Miah Para High School, for Kamalasagar Bhadra Mela, 2012 purpose. Being a subordinate staff I was under obligation and compulsion to obey the instruction issued by the B.D.O., Bishalgarh R.D. Block.

5. That, I have not committed any willful or deliberate act of omission or commission. I have not caused misappropriation of Govt. money. I have not caused diversion of Govt. fund.

Under the circumstances, stated above, I humbly submit that, your good office may be kind enough to accept my reply and for this act of kindness I shall remain highly obliged.

Yours faithfully,

Sd/-(SRI TUSHAR KANTI SEN)

Panchayet Secretary,

Mandai R.D. Block, West Tripura,

Residence: Ramnagar Road No.5-6 End,

P.O. Ramnagar-799002, Agartala,

Tripura(W)."

Mr. P. Roy Barman, learned counsel for the bail petitioner, submits that the accused is not denying the fact that the funds were not used for repair of the school but according to him, the accused was forced by the then B.D.O., Bishalgarh to utilize the funds in connection with the expenses incurred in the Kamalasagar Bhadra Mela and out of this, Rs.45,080/- was paid to one Sri Chhabir Khan against proper receipt on the instruction of the B.D.O.

The stand of the accused virtually amounts to admission of guilt but according to him, he has acted under pressure from the higher authority. No further investigation with regard to this allegation is to be carried out because the accused has admitted the allegation. As far as the case is concerned, both the investigation and the trial of the case are going to take a rather long time. The accused has already been behind bars for almost 45 days and he is not required for the purpose of interrogation any longer.

It is, therefore, directed that the accused Tushar Kanti Sen be enlarged on bail on his furnishing bail bond in the sum of Rs.20,000/- (rupees twenty thousand) with one surety in the like amount subject to the following conditions:-

(i) That, the accused is further directed not to tamper with or in any manner influence the prosecution witnesses;

(ii) The accused is further directed not to in any manner try to influence any of the prosecution witnesses;

(iii) The accused is further directed not to cause any hindrance in the investigation;

(iv) The accused shall not leave Tripura without permission of the appropriate Court;

It is, however, made clear that this bail has been granted only in respect of this allegation of Rs.50,000/- and if during the course of investigation or trial any further allegations are revealed against the accused for misappropriation or malfeasance of funds, then the State shall be at liberty to apply for cancellation of the bail.

On the petitioner filing application for supply of the copy on payment of appropriate fees, the copy of the same shall be supplied to the petitioner during the course of the day.

The bail application is disposed of.