

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38232 of 2016

Arising Out of PS.Case No. -75 Year- 2015 Thana -KINJAR District- JEHANABAD

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1. Mundrika Singh Yadav, son of Late Sukhdeo Singh, resident of Village- Sonbhadra, Police Station- Bansi, District- Arwal.
 2. Awadhesh Prasad, son of Shri Ramdeo Singh, resident of village- Sarwali Tola, Santoshi Bigha, Police Station- Bansi, District- Arwal.

.... Petitioners

Versus

1. The State of Bihar.
2. Kiran Kumar Rahi, son of Late Choudhary Singh, resident of Village- Mirzapur, Police Station- Kinjer, District- Arwal.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Dr. Kumar Uday Pratap
For the Opposite Party/s : Mr. Sri Narsingh Tanti

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 19-09-2016 Heard Sri Basant Kumar Chaudhary, learned Senior Counsel, who was assisted by Sri (Dr.) Kumar Uday Pratap, learned counsel for the petitioners and Sri Narsingh Tanti, learned Addl. Public Prosecutor.

Two petitioners, who are Secretary and Principal respectively of one Mundrika Singh Yadav College, Mirzapur, apprehending their arrest in Complaint Case No.41/2016 (arising out of Kinjar P.S. Case No.75/2015 registered for the offence under Sections 420,400, 419, 467, 468, 120(B), 409/34), Trial No.1423/2016, have prayed for grant of bail in the event of their arrest or surrender.

At the very outset, it was submitted by learned Senior Counsel appearing on behalf of the petitioners that on false accusation, initially a complaint was filed by the complainant, who was one of the members of the Managing Committee of the College in question, which was registered as Complaint Case No.264/2015, which was referred to the police for its registration and investigation under Section 156(3) of the Code of Criminal Procedure. Thereafter, an F.I.R. vide Kinjar P.S. Case No. 75/2015 was registered for the offence under Sections 420, 406, 419, 467, 468, 120(B) /409/34 of the Indian Penal Code. However, during investigation, the accusation was not found true and, accordingly, the police submitted final report exonerating the petitioners vide Chargesheet No.92/2015 dated 24.11.2015. He submits that even before submission of final report, the complainant had filed a protest petition. After submission of final report, same was accepted by the learned Chief Judicial Magistrate. However, protest petition was treated as complaint and, thereafter, it was referred to another Magistrate under Section 192(2) of the Code of Criminal Procedure. Subsequently, an enquiry was conducted and during enquiry, the complainant got three witnesses examined and only thereafter order of cognizance was passed for the offence under Sections 417, 418, 406/34 of the Indian Penal Code. It was



submitted by learned counsel for the petitioners that without any element of criminal offence, initially a complaint was filed on an allegation that the petitioners had withdrawn about Rs.13 Lacs and odd from the college fund and misappropriated the same. However, as per learned counsel for the petitioners, the petitioners being competent to operate the Bank account had withdrawn the said amount for the purpose of purchasing Scorpio vehicle and said amount was paid to the Agency directly. The vehicle was registered in the name of the college in question. He submits that in any event once after thorough investigation, which was done by statutory Investigating Agency, the petitioners were exonerated, there was no occasion for the learned Magistrate to proceed with the protest-cum- Complaint Petition.

Learned Addl. Public Prosecutor has vehemently opposed the prayer for grant of anticipatory bail.

However, considering the facts and circumstances, particularly the fact that finally the investigation was conducted by the statutory Investigating Agency and the allegation was not found true, the Court is of the opinion that there is no reason to deny the privilege of anticipatory bail to the petitioners. Accordingly, let the aforesaid two petitioners, namely,(i) Mundrika Singh Yadav and (ii) Awadhesh Prasad, in the event of

their arrest or surrender within six weeks from today, be released on 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 Sub Divisional Judicial Magistrate, Arwal in connection with Complaint Case no.41/2016 (arising out of Kinjar P.S. Case no.75/2015), subject to conditions as laid down in Section 438(2) of the Code of Criminal Procedure.

(Rakesh Kumar, J)

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