

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40537 of 2017

Arising Out of PS.Case No. -104 Year- 2017 Thana -ARIYARI District- SEKHPURA

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1. Md. Aslam Hussain son of Md Gulab Hussain, resides near Lovely Coaching Centre, Mohalla- Dadar Mandi, P.O.- Gulzarbagh, District- Patna, Bihar, Pin 800007. Presently holding the Post of Programme Officer (P O) of Ariyari Block in Sheikhpura District.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.40877 of 2017

Arising Out of PS.Case No. -104 Year- 2017 Thana -ARIYARI District- SEKHPURA

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1. Devanand Kumar aged about 32 Years , Son of Late Laxman Noniya, R/o Village- kare, P.O.- Kare, P.S.- Sheikhpura, District- Sheikhpura, Bihar, Pin-811105. Presently, Holding the Post of PRS at Ekrama Panchayat Under Chebara Block of Sheikhpura, District.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.40537 of 2017)

For the Petitioner/s : Mr. Abhishek Krishna Gupta

For the Opposite Party/s : Mr. Sri Parmeshwar Mehta

(In Cr.Misc. No.40877 of 2017)

For the Petitioner/s : Mr. Abhishek Krishna Gupta

For the Opposite Party/s : Mr. Sri Parmeshwar Mehta

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

4 31-10-2017 Both petitions arise out of Ariyari P.S. Case No. 104 of 2017 registered for the offence under Sections-406, 409, 420, 467, 468, 471 of the IPC, in which petitioners apprehend their arrest and accordingly, both petitions are being heard and



disposed of by this common order.

Heard learned counsel for the petitioners and the State.

Counsel for petitioners has submitted that both petitioners have been initially appointed on contract basis for two years and thereafter, their services have been extended as per their performance. It has further been submitted that as per Section-14(2) of MANREGA Act, the District Programme Coordinator shall be responsible for the implementation of the Scheme in the district in accordance with the provisions of this Act and the rules made thereunder. It has further been mentioned in Section-14(1) of the aforesaid Act that the Chief Executive Officer of the District Panchayat or the Collector of the district or any other district level officer of appropriate rank as the State Government may decide shall be designated as the District Programme Coordinator for the implementation of the Scheme in the district. It has been submitted that the petitioner in Cr. Misc. No. 40877 of 2017 was working as Panchayat Sevak and the petitioner in Cr. Misc. No. 40537 of 2017 was working as Programme Officer. Both were contract workers.

In the written report, there is allegation that Resident of Hussainabad Panchayat under Ariyari Block of Sheikhpura district complained of irregularities in the implementation of the MANREGA scheme. Thereafter, a five member enquiry committee was set up. The committee submitted its report whereby most of the allegations are found correct. Thereafter, on the basis of inquiry report, show cause



was issued to the petitioner and other accused and after finding the reply to the show cause unsatisfactory, the informant was directed by the District Officer, Sheikhpura to register FIR against the petitioners and others.

The case diary has been received.

The learned APP has submitted except in the inquiry report, there is no any specific allegation against these petitioners in the case diary of making defalcation of money.

Counsel for the petitioners has submitted that if there has been any wrong committed in MANREGA scheme, there is provision to initiate certificate proceeding for recovery of defalcated amount. It has further been submitted that the other co-accused persons namely, Narendra Kumar and Rajesh Kumar have been granted anticipatory bail by different benches of this court vide orders dated 04-10-2017 and 13-10-2017 passed in Cr. Misc. Nos. 47323 of 2017 and 38912 of 2017.

In such circumstances, prayer for anticipatory bail is allowed and it is ordered that the petitioners named above in the event of their arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Ariyari P.S. Case No. 104 of 2017 to the satisfaction of learned Sub Divisional Judicial Magistrate, Sheikhpura subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local



having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(Sanjay Priya, J)

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