

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4834 of 2018

Arising Out of PS.Case No. -194 Year- 2017 Thana -NARDIGANJ District- NAWADA

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1. Pramod Kumar, Son of Awad Ram, resident of Village- Nardidih Mukhiya, Gram Panchayat, Handia, P.S.- Nardiganj, District Nawada.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.7305 of 2018

Arising Out of PS.Case No. -194 Year- 2017 Thana -NARDIGANJ District- NAWADA

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1. Murari Prasad, Son of Late Bishundhari Singh, Resident of Village- Ismailpur, Police Station- Sirdala, District- Nawada. At present Panchayat Secretary, Gram Panchayat Handiya, Police Station- Nardiganj, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.4834 of 2018)

For the Petitioner/s : Mr. Bipin Kumar, Advocate

For the Opposite Party/s : Mr. Anish Chandra, APP

(In Cr.Misc. No.7305 of 2018)

For the Petitioner/s : Mr. Rajesh Kumar, Advocate

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 17-02-2018

Heard learned counsel for the petitioners and the State.

The petitioners apprehend arrest in Nardiganj P.S. Case No. 194 of 2017 instituted for the offence under Sections 406,409,420,467,468,471/34 of the IPC.

In the written report, it is alleged that these petitioners



being Panchayat Secretary and Mukhiya of Gram Panchayat Hadiya, illegally withdrew the amount under Mukhya Mantri Nischay Yojna. It is further alleged that on the direction of Estimate Committee of Block, the amount was to be transferred to the account of Ward Executive Committee and on recommendation of Ward Executive Committee, the money was to be withdrawn, but the same was not done by these petitioners.

Learned counsel for the petitioners has submitted that the aforesaid guidelines for the Panchayat of the Government was challenged in CWJC No. 19591 of 2016 with analogous cases and this Hon'ble Court vide judgment dated 17.05.2017, enclosed as Annexure-4 to this petition, quashed the aforesaid instruction of the Government for carrying out the work on recommendation of Ward Executive Committee. Learned counsel for the petitioners has further submitted that in the written report, there is no allegation of defalcation of amount against the petitioners. There is only allegation that without transferring the amount first to Ward Vikas Samiti, the money has been directly withdrawn by this petitioner. The supplementary affidavit has been filed on behalf of the petitioners. The counsel for petitioners has submitted that measurement book has been issued after completion of all the work.

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 bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each in connection with Nardiganj P.S. Case No. 194 of 2017 to the satisfaction of the learned Additional Chief Judicial Magistrate-VI, Nawada subject to condition as laid down u/S 438 (2) of the Cr. P.C. with further conditions (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 dated fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bonds of the petitioners and (3) if the petitioners tampers 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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