

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7298 of 2018

Arising Out of PS.Case No. -142 Year- 2017 Thana -ARWAL District- JEHANABAD

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1. Nityanand Singh, son of Late Bhagwan Singh, resident of Village-Khankulipur, Police Station- Arwal, District- Arwal. At present Chairman Arwal Nagar Prishad, Arwal. Petitioner/s

Versus

1. The State of Bihar. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Choubey, Adv.

For the Opposite Party/s : Mr. Sri Ashok Kumar, APP.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

7 28-03-2018

Heard.

Petitioner seeks bail in a case registered for the offences punishable under Sections 420,406,409/34 of the Indian Penal Code and 13(2) read with Section 13(1)(D) of the Anti-Corruption Act, 1988.

The petitioner is Chief Councilor of Nagar Parishad, Arwal.

Allegation is that defalcation of public money was made by the petitioner in the different schemes of the Govt. in collusion with Chief Executive Officer who is co-accused of this case. The schemes are mentioned in the letter of Director, Nagarpalika at Page-22. The irregularities found during enquiry was that the schemes were not approved by the Nagar Parishad as required, proper tender was not floated, proper and required quality of articles were not purchased and in all these things, collusion of the



petitioner is there.

Submission of the learned counsel for the petitioner is that only responsibility as per the Bihar Municipal Act is that each scheme is to be approved by the Nagar Parishad in a meeting called by the petitioner. The register produced by the State would reveal that each schemes were got approved in the duly convened meeting on different dates.

At this stage, objection was made on behalf of the learned counsel for the informant and others that minutes is not signed by other members rather it is signed by the petitioner only. Hence, it cannot be said that the decision was of Nagar Parishad.

Section 60 of the Bihar Municipal Act, 2007 clearly stipulates that minutes is to be signed by the Presiding Officer only and a copy of the proceeding has to be kept on the register maintained, which is already there.

Submission of the learned counsel for the petitioner is that there is no further responsibility of the petitioner rather the statutory duty is of the Chief Executive Officer to float tender and purchase the articles as required and also to ensure execution of the scheme according to law. The petitioner is in custody since 03.11.2017. There is no substantial material against the petitioner. Investigation of



the case is already complete now.

Learned counsel for the informant opposed the prayer for bail on the ground that all the resolutions were not confirmed in the subsequent meeting of the Committee which is requirement of the law. He further submits that one of the members of Nagar Parishad had complained regarding irregularities, which was enquired by the competent authorities and FIR was subsequently lodged.

However, no material has been produced to substantiate that any member had ever raised orally or in writing in the meeting regarding confirmation of the previous proceeding. Moreover, the allegation maker was not a member at the time the resolutions were passed earlier.

Hence, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Arwal Police Station Case No.142 of 2017, subject to the condition that the petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

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