

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5294 of 2018

Arising Out of PS.Case No. -195 Year- 2017 Thana -NARDIGANJ District- NAWADA

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Rakesh Kumar @ Shree Rakesh Kumar, son of Biseshwar Mahto, Resident
of Village-Kahuara, P.S.-Nardiganj, District- Nawada.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Opposite Party/s : Mr. Amrendra Prasad

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 27-03-2018

Heard learned counsel for the petitioner and the
State.

The petitioner apprehends his arrest in Nardiganj
P.S. Case No. 195 of 2017 instituted for the offence under
Sections 406, 409, 420, 467, 471/34 of the Indian Penal Code.

In the written report, it is alleged that this petitioner
being *Mukhya* of *Gram Panchayat Kahuara* 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money was to be withdrawn, but the same was not done by these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 petitioner has submitted



that the aforesaid guidelines for the *Panchayat* 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-3 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 There is only allegation that without transferring the amount first to Ward Vikas Samiti, the money has been directly withdrawn by this petitioner.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 petitioner. The counsel for the petitioner has submitted that measurement book has been issued after completion of all the work.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioner is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today, in connection with Nardiganj P.S. Case No.195 of 2017, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Nawada, subject



to the conditions as laid down under Section 438 (2) Cr. P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and their absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner 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 petitioner.

(Sanjay Priya, J)

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