

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55479 of 2017

Arising Out of PS. Case No.-100 Year-2017 Thana- PARWATTA District- Khagaria

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1. Pawan Chaudhary @ Pawan Kumar Chaudhary Son of Late Chamak Lal Chaudhary Resident of Village - Sirajpur, Ex-Mukhiya Temtha Karari Panchayat, Police Station - Parbatta, District - Khagaria.
 2. Manibhushan Son of Late Nand Kishore Yadav Resident of Village - Ratan, Police Station - Gogri, District - Khagaria.
- Petitioners

Versus

The State of Bihar.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj

For the Opposite Party/s : Mr. SRI RAM SUMIRAN ROY

CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

- 3 15-01-2018 Heard learned counsel for the petitioners and learned APP for the State.

The petitioners apprehend their arrest in connection with Parbatta P. S. Case No. 100 of 2017 registered for the offences punishable under Sections 420, 467, 468, 471, 120(B) of the Indian Penal Code.

On the basis of complaint petition this case has been registered on the allegation that the petitioners withdrew Rs. 9 lakhs meant for installing Tube Wells in Gram Panchayat Temtha for the financial year 2015-16. The petitioner no. 1 was Mukhiya and petitioner no. 2 was Panchayat Secretary during the relevant period. The matter came to the knowledge of the Administration and B.D.O., Parbatta made inquiry and S.D.M.,



Gogari had recommended for prosecution against the petitioners but due to the influence of the petitioners FIR was not registered.

Submission is of false implication and that the petitioners have been implicated at the instance of local M.L.A. in connivance with S.D.O. Parbatta and the B.D.O. is biased against the petitioner no. 1 as he had earlier rejected the nomination paper in Mukhiya election against which writ was filed wherein this Court has restored the candidature of the wife of the petitioner no. 1. It is submitted that District Magistrate authorized to order for inquiry and hence, filing of instant case is against the law. The complainant is in habit of lodging cases one after another and earlier such type of cases have also been lodged by changing the complainant and witnesses, wherein the petitioners have been allowed pre-arrest bail either by this Court or by learned Sessions Judge itself. The beneficiaries have sworn affidavit that tube wells have been installed and there is no defalcation.

Learned APP duly assisted by learned counsel for the informant opposes the prayer of pre-arrest bail by submitting that during investigation witnesses have supported the allegation of misappropriation and within four days amount of Rs. 9 lakhs



have been paid in advance by the petitioner no. 1 to petitioner no. 2. Up-till now, the measurement book, Master Roll and vouchers have not been deposited and it transpires that the huge amount of government has been defalcated. The witnesses, namely, Manoranjan Chaudhary, Manindra Chaudhary, Ramashankar Chaudhary, Kushewar Chaudhary, Tripti Chaudhary and Ramashankar Chaudhary have also supported the case of the informant and have stated that the petitioners misappropriated the government money and not a single tube well has been installed.

In the facts and circumstances stated above, considering that earlier also the petitioners were made accused in the cases lodged on the basis of complaint case and again in this complaint case the petitioners have been made accused and earlier they have been allowed pre-arrest bail and as such, the petitioners above named, in case of their arrest or surrender within four weeks from the date of receipt/production of a copy of this order, are directed to be released on bail on execution of bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate I, Khagaria in connection with Parbatta P. S. Case No. 100 of 2017, subject to the condition as



laid down under Section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

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