

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57171 of 2018

Arising Out of PS.Case No. -13 Year- 2017 Thana -AKBARPUR District- NAWADA

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1. Md. Usman @ Md. Usman Ali, Son of Late Rasid Miya, Resident of Runipur, P.S.- Akbarpur, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Advocate.

For the Opposite Party/s : Mr. Sri Yogendra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 09-10-2018

Heard learned counsel for the petitioner and the State.

The petitioner seeks bail in Akbarpur P.S. Case No.

13 of 2017 instituted for the offence under Sections 406, 409 and 420 of Indian Penal Code.

It is alleged in the written report filed by the Block Development Officer on the instruction of District Magistrate, Nawada, that this petitioner along with Rohan Chauhan while acting as Mukhiya of Gram Panchayat Makhar of Akbarpur Block, defalcated government money. The allegation against the petitioner is that he remained Mukhiya of Gram Panchayat Makhar from the year 2006-2011 as mentioned in the written report. During that period he withdrew Rs.15.70 lacs from the account as mentioned in the written report without taking approval



from the Department with respect to different Projects. The Audit team enquired about the expenses made by the petitioner of those Projects and made demand of relevant register and other documents in support of money spent by the petitioner on those Projects, but the same was not made available by the petitioner. It is further alleged that petitioner has withdrawn amount of Rs.8,00,000/- by issuing cheque in his name.

Counsel for the petitioner submits that as per Audit Report, the Auditor has recommended for verification of the allegation, but the District Magistrate, Nawada, without making any verification, has ordered to lodge First Information Report against the petitioner. Counsel for the petitioner further submits that petitioner was removed from post of Mukhiya in the month of June, 2011. After his removal, Rohan Chauhan was elected Mukhiya and during the period of Rohan Chauhan, audit was done and Audit Team demanded register and other documents of Panchayat, but he did not produce the concerned register before the Audit team. Counsel for the petitioner further submits that independent witnesses in paragraphs 24 to 80 of the case diary have stated that various works were done by the petitioner on different Projects, but they have no knowledge about expenditure made on those Projects.



Learned A.P.P. after perusal of the case diary has submitted that B.D.O. has mentioned in his further statement that misappropriation has been made by the petitioner. The witnesses in paragraphs 24 to 80 of the case diary have stated that work has been done on various Projects by the petitioner, but the witnesses have stated that they have no knowledge about money spent by the petitioner on those Projects.

In this manner, this Court finds that this was the matter of verification on the basis of Audit Report with regard to the expenditure made by the petitioner on various Projects. The witnesses have stated in the case diary that work has been done by the petitioner.

Considering the aforesaid facts and circumstances of the case, prayer for bail of the petitioner is allowed. Let the petitioner above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st, Nawada, in connection with Akbarpur P.S. Case No. 13 of 2017, subject to the condition that both the bailors will be close relatives of the petitioner.

(Sanjay Priya, J)

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