

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15053 of 2019

Arising Out of PS. Case No.-80 Year-2017 Thana- VIJAYEPUR District- Gopalganj

DIWAKAR PRASAD GUPTA @ DIWAKAR PRASAD, Male, aged about 46 years, Son of Late Ramdhani Sah @ Late Ramdhani Gupta, Resident of Village - Jagdishpur, P.S.- Vijaipur, Distt – Gopalganj ... Petitioner

Versus

The State of Bihar

... Opposite Party

Appearance :

For the Petitioner : Mr. Lokesh Kumar Singh, Adv.

For the Opposite Party : Mr. Satyavrat Verma, APP

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

2 14-03-2019 Heard the learned counsel for the petitioner and the learned counsel appearing for the State.

The petitioner is languishing in judicial custody since 22.12.2018 in connection with Vijaipur P.S. Case No. 80 of 2017 for the offences alleged under Sections 420, 409 and 406 of the Indian Penal Code.

The prosecution case, as lodged by the Block Education Officer, Vijaipur, Gopalganj, is that the petitioner being the Headmaster of the upgraded middle school, Barhara, Vijaipur, Gopalganj, was granted fund for construction of additional rooms of the school building in the years 2011-12 and 2012-13, but, he has not yet constructed the said additional room and not reconciled the accounts. A first information report has been lodged against the three Headmasters of different schools, including the petitioner.



It has been submitted by the learned counsel for the petitioner that the construction was still going on and now he has constructed the room and has reconciled the accounts for which a no dues certificate has been issued by the District Programme Officer, Bihar Education Project, Gopalganj, relating to the said amount by letter No. 169, dated 21.01.2019, as contained in Annexure 3 to the present application, and letter no. 236, dated 05.02.2019, as contained in Annexure 3/A to the present application for the said years. It is, further, submitted that the balance amount, i.e., Rs.68,515/-, which was unutilized has already been deposited by the petitioner as contained in Annexure 4/A to the present application. He, further, submits that as a public servant no such defalcation has been done as alleged as the construction work was still underway, hence, the amount could not be reconciled mid-way. It is, further, submitted that the co-accused, against whom first information report was lodged, having similar allegations, has been granted the privilege of bail in Cr. Misc. No. 12074 of 2019 vide order, dated 27.02.2019, by a coordinate Bench of this Court. He, further, submits that the petitioner does not bear any criminal antecedent, has unblemished record and no such allegation was levelled against the petitioner earlier at any point of time.



However, the learned Additional Public Prosecutor for the State opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each in connection with Vijaipur P.S. Case No. 80 of 2017 to the satisfaction of the learned Additional Chief Judicial Magistrate, IV, Gopalganj, subject to the condition that one of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.

(Nilu Agrawal, J)

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