

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10868 of 2019

Arising Out of PS. Case No.-46 Year-2018 Thana- NAUBATPUR District- Patna

KAUSHAL KAUSHIK, Son of Late Jagdish Prasad, Resident of Village -
Nisarpura, P.S.- Naubatpur, Distt.- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashank Shekhar, Advocate.

For the Opposite Party/s : Mr. Ajay Mishra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6 24-04-2019 Heard learned counsel for the petitioner and the

State.

The petitioner seeks bail in **Naubatpur P.S. Case No. 46 of 2018**, instituted for the offence under Section(s) 420, 406, 409, 467, 468, 471 and 120-B of the Indian Penal Code pending in the court of learned Additional Chief Judicial Magistrate-II, Danapur.

As per prosecution case filed by Sushil Kumar, Executive Officer, Naubatpur Nagar Panchayat, in view of objection raised by Estimate Committee of the Bihar Legislative Assembly, an enquiry was conducted by Sub-Divisional Officer, Danapur. During enquiry, it was found that illegality was committed by the Chairman (petitioner) who was the then Executive Officer of the Standing Committee of



Naubatpur Gram Panchayat in the selection of N.G.O. and PMU in IHSDP Programme. The report submitted by the Sub Divisional Officer, Danapur, on the basis of objection raised by Estimate Committee of Bihar Legislative Assembly, is part of the First Information Report.

Counsel for the petitioner submits that there is no specific allegation against the petitioner of misappropriation of money. No money was ever paid by the petitioner to any Agency. He has not signed on any of the cheque. He was only member of a policy decision taking body as its Chairman consisting of several other members. The policy decision was also a joint decision of the Standing Committee as well as the Nagar Panchayat. He further submits that co-accused Anita Bharti, Executive Officer, has already been granted anticipatory bail by learned Additional Sessions Judge 7th, Danapur, in ABP No. 3355 of 2018 vide order dated 13.8.2018. Another co-accused Sanjeev Kumar has also been granted anticipatory bail by this Hon'ble Court vide order dated 7.1.2019 passed in Cr. Misc. 57227 of 2018.

Counsel for the State has appeared and submitted that recommendation of Estimate Committee was challenged in CWJC No. 5756 of 2017 by the petitioner, but the same was



not accepted by the Hon'ble Court vide order dated 13.2.2018 passed in LPA No. 1548 of 2017. The Criminal Writ was also filed by the petitioner to set aside the First Information Report, which was dismissed as withdrawn. He has further submitted that petitioner was the Chairman of Nagar Panchayat of Naubatpur and there is serious allegation against him in the written report. The witnesses, in paragraphs-20, 21, 22, 23 and 30 of the case diary, have levelled specific allegation against the petitioner of misappropriating money.

During enquiry, the illegality was found committed by the petitioner in selection of N.G.O. and Programme Management Unit (PMU). The illegality was also found in the advertisement for selection of the NGO and Programme Management Unit. There was no proper advertisement made in the Newspaper as required. The irregularity has also been committed in selection of beneficiaries in different schemes. The irregularities have been committed by the petitioner and other co-accused in making payment to different beneficiaries causing loss of Rs.49 crores to the Government exchequer.

Case diary has been received.

Learned A.P.P. after looking into the case diary has submitted that witnesses in paragraphs-20, 21, 22, 23 and 30 of



the case diary have given statement in detail about irregularities committed by this petitioner along with other accused persons in selection of NGO as well as purchase of articles and also the irregularities committed by Saryu Babu Engineers for Resource Development, Patna, in selection of beneficiaries. No advertisement was made for aforesaid selection. There was clear direction of the department for selection of NGO and PMU under IHSDP Programme, but the same was not followed by petitioner as being Chairman of Naubatpur Nagar Panchayat along with other accused persons.

From perusal of the statement of witnesses recorded in paragraphs 20, 21, 22, 23 and 30 of the case diary, it appears that witnesses have given in detail about various irregularities committed by the petitioner as Chairman of the Naubatpur Nagar Panchayat, causing loss to the Government exchequer amounting to Rs.49 crores.

From paragraph-3 of the bail petition it appears that several other cases are also pending against the petitioner including Vigilance P.S. Case No. 1 of 2019 for the offences under Sections 420, 406, 409, 409, 467, 468, 471, 120(B) of the Indian Penal Code, Sections 13(2)/13(1) of Prevention of Corruption Act.



Therefore, this Court is not inclined to grant bail to the petitioner at this stage.

Prayer of the petitioner for grant of bail stands rejected.

The trial court is directed to expedite the trial.

(Sanjay Priya, J)

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