

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30274 of 2019

Arising Out of PS. Case No.-81 Year-2017 Thana- BIKRAM District- Patna

ASHOK KUMAR SHARMA Son of Sri Kamta Prasad Sharma, Resident of
Rajapur, P.S.-Bodhgaya, District-Gaya.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Superintendent of Police Vigilance Investigation Bureau, Patna. Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar
For the Opposite Party/s : Mr. Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 15-05-2019 Heard learned counsel for petitioner and learned counsel
for the Vigilance.

Earlier, the prayer for anticipatory bail of the petitioner was dismissed as withdrawn by this Court vide order dated 11.1.2018 passed in Cr. Misc. no. 55813 of 2017. Thereafter, the prayer for anticipatory bail of the petitioner was again rejected by this Court vide order dated 4.7.2018 passed in Cr. Misc. No. 37952 of 2018. Thereafter, once again the prayer for anticipatory bail of the petitioner was rejected by this Court vide order dated 12.9.2018 passed in Cr. Misc. No. 49543 of 2018. Subsequently, the petitioner has moved the Hon'ble Supreme Court vide S.L.P. No. 905 of 2019, which has been dismissed as withdrawn with liberty to move fresh application along with relevant materials before the High Court.



Accordingly the instant anticipatory bail petition has been filed by petitioner before this Court.

Learned counsel for petitioner submits that a departmental proceeding was held with regard to the allegation of financial irregularities committed by the petitioner and in the said departmental proceeding, it was held that no proof of financial irregularities was found. It is also mentioned in the aforesaid departmental proceeding that Vigilance enquiry has also been initiated against the officer concerned for the alleged financial irregularity on the direction of the Hon'ble *Loka Ayukta* and the same is still pending. Learned counsel further submits that since in a departmental proceeding, no proof of financial irregularity has been found, the petitioner is entitled for grant of anticipatory bail. During course of argument, learned counsel for petitioner has relied on decisions reported in **(1996) 9 SCC1 (P.S. Rajya vs. State of Bihar)** and **(2017) 13 SCC 555 (Rani Dudeja vs. State of Haryana)** and submitted that second anticipatory bail application is maintainable.

Learned counsel for the Vigilance has submitted that as per terms of the order of the Hon'ble *Loka Ayukta* vigilance enquiry has been initiated against the petitioner for the aforesaid financial irregularity, and the result of the vigilance



enquiry, is still awaited. He further submits that earlier the prayer for anticipatory bail of the petitioner was twice rejected by this Court and also by the Hon'ble Apex Court.

The allegation against the petitioner is that while he was posted as Block Agricultural Officer he defalcated an amount of Rs. 52,50,000/- of Shri Vidhi Yojna of the year 2013-14 by not making payment of the same for the distribution of Upadan Fertilizer and pesticides to different farmers. It is further alleged that petitioner had withdrawn the amount but the same was not distributed. The Director, Agriculture had give direction for lodging FIR against the petitioner in view of joint enquiry report of Joint Director vide letter no. 362 dated 6.4.2017 which is part of the First Information report.

During enquiry, it was found that money has been withdrawn by the petitioner, but the same was not distributed to the farmers and several other irregularities were found as mentioned in the enquiry report. The Spl. Judge 1st Patna has mentioned in the impugned order dated 17.4.2018 that in the investigation, it has come that petitioner has illegally withdrawn the money on various dates in connivance with other accused persons, which were to be distributed between 10 May to 20th May 2013 to the farmers in Shivir in the premises of



Bikram Block. From the report of the departmental enquiry which has been enclosed as Annexure-11 to bail petition, it appears that as per direction of the Hon'ble *Loka Ayukta* with regard to the allegation of financial irregularity committed by the petitioner vigilance enquiry has been initiated against the petitioner. The Enquiry report of Joint Director Agriculture is part of the FIR, wherein, details of various irregularities committed by this petitioner have been mentioned and on the basis of the aforesaid detailed enquiry report submitted by the Joint Director Agriculture, the FIR was lodged against this petitioner.

Therefore, keeping in view the serious allegation against this petitioner of committing financial irregularity causing heavy loss to the government money, this Court does not find it a fit case for grant of anticipatory bail.

The prayer for anticipatory bail of the petitioner is again rejected.

The petitioner is directed to surrender in the Court below and make prayer for regular bail within a period of four weeks from receipt of this order. Petitioner will be at liberty to take all the grounds as taken in this Court during hearing of regular bail petition in the Court below at the time of surrender which



shall be considered by the Court below in accordance with law
without being prejudiced by this order.

(Sanjay Priya, J)

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