

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44068 of 2019

Arising Out of PS. Case No.-149 Year-2019 Thana- GARKHA District- Saran

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1. MUKESH RAI @ MUKESH KUMAR RAI Son of Rajballav Rai R/o Village- Vanvari Basant, P.S.- Garkha, District- Saran
 2. Rambha Devi W/o Mukesh Rai R/o Village- Vanvari Basant, P.S.- Garkha, Dist- Saran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raja Ram Rai, Advocate.

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP.

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 16-09-2019 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners apprehend their arrest in a case registered under Section 409 of the Indian Penal Code.

As per the informant who happens to be alleged PACs president, the Ex President and Manager of the PACs namely Mukesh Rai and Rambha Devi respectively have committed embezzlement of Rs. 3 lacs and they have also made over charge of the office to the informant. The F.I.R. was lodged on the basis of Letter No. 1385 dated 27.11.2018 of District Cooperative Officer, Chapra.

It is submitted by learned counsel for the



petitioners that no such occurrence as alleged ever took place. Petitioners have been falsely implicated in the case. Petitioner no.1 was not elected president of the PACs but his election was challenged by the informant and it was cancelled and against the said cancellation petitioner has filed CWJC No. 2145 of 2019 in this Court and as the informant happens to be defeated candidate in the election he cannot be president of the PACs as as per the Section 14 Sub Section 9 of The Bihar Cooperative Societies Act 1935, the incharge president may be elected from the member of management committee and informant does not happen to be member of the management committee. He is not entitled to lodge the F.I.R. in the capacity of the President. Moreover Letter No. 1385 dated 27.11.2018 which is relied upon for filing the F.I.R. is not regarding filing F.I.R. rather for taking further action for the operation of the PDS shop and uptill now no audit report has been submitted in this case. Petitioners have no criminal antecedent.

Having regard to the facts and circumstances of the case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like



amount each to the satisfaction of the learned A.C.J.M., Saran at Chapra in connection with Garkha P.S. Case No. 149 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Prakash Chandra Jaiswal, J)

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