

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47156 of 2019

Arising Out of PS. Case No.-76 Year-2019 Thana- SIDHWALIYA District- Gopalganj

1. AJAY KUMAR TRIPATHI Son of Ramjee Tripathi Resident of Village - Dangsi, P.S.- Sidhwalia, Distt - Gopalganj.
2. Achhelal Sah @ Achhe Lal Prasad Son of Binda Sah Resident of Village - Dangsi, P.S.- Sidhwalia, Distt - Gopalganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yogendra Prasad Sinha

For the Opposite Party/s : Mr.Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

2 30-07-2019 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Sidhwaliya P.S. Case No.76 of 2019 registered under Sections 409 and 420 of the Indian Penal Code besides Section 45(B) of the Bihar Co-operative Societies Act, 1935.

The accusation is that the petitioner no.1 and the petitioner no.2 being the Chairman and Manager of PACS of Larauli, Block-Barauli, District-Gopalganj, respectively, in course of inspection, did not supply the records and, as such, they committed the offence under Section 45 (Kha) of the Bihar Co-operative Societies Act, 1935 and on the basis of the letter



no.445 dated 18.04.2019 of the District Co-operative Officer, Gopalganj, the present case was lodged by the Block Cooperative Extension Officer, Block-Baraurli, District-Gopalganj, on 23.04.2019.

Learned counsel for the petitioners submits that on the basis of the written report of the Block Co-operative Extension Officer, Barauli, District-Gopalganj, the present case was lodged on 23.04.2019, while it would appear from Annexure-2, which is letter no.119 dated 30.04.2019 of the District Audit Officer, Co-operative Societies, Gopalganj, addressed to the District Co-operative Officer, Gopalganj, that the audit is being conducted at the PACS Larauli, Block-Barauli, Gopalganj, where the petitioner no.1, is posted as Chairman and the petitioner no.2 is posted as Manager. Further, as per the provisions of Section 47(3) of the Bihar Co-operative Societies Act, 1935, no prosecution for an offence under the aforesaid Act shall be instituted without the previous sanction of the Registrar and the Registrar would not sanction the prosecution of any person unless he has given such person an opportunity of being heard. In the present case, neither the sanction of the Registrar of the Co-operative Societies was taken nor any opportunity was given to the petitioners to put their case.



Having considered the facts and the circumstances of the case, let the petitioners, above named, in the event of their arrest or surrender by them within six weeks from today, be enlarged on bail on their furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Additional Chief Judicial Magistrate-VI, Gopalganj, in connection with Sidhwaliya P.S. Case No.76 of 2019, subject to the conditions laid down under Section 438(2) Cr.P.C.

(Rajendra Kumar Mishra, J)

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