

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62561 of 2019

Arising Out of PS. Case No.-113 Year-2017 Thana- KATEYA District- Gopalganj

Sudama Prasad Srivastava Son of Shankar Prasad Srivastava Resident of
Bankatiya, P.S.- Kateya, Distt - Gopalganj.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Yogesh Chandra Verma Mr.Anuj Kumar
For the State	:	Mr.Parmeshwar Mehta
For the Informant	:	Mr. Madhav Raj

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 11-12-2019 Heard learned senior counsel for the petitioner as well as learned counsel for the informant and Addl. Public Prosecutor for the State.

Petitioner is apprehending his arrest in Kateya P.S. Case no. 113/2017 registered under sections 420, 409, 467, 468, 471 and 120B of the IPC.

Offences in the F.I.R allege misappropriation of fund of PACS by the then manager (petitioner). Misappropriation alleged is to the tune of Rs 22 lakh.

It is submitted by learned senior counsel appearing for the petitioner that petitioner had retired long back on 31.08.2010. Entire allegations in the F.I.R are founded on audit report for the year 2008-09 and 2014-15. Since such a long



time, no allegation whatsoever has been levelled against the petitioner even though the Chairman who has lodged the instant case was the Chairman of the PACS when petitioner was serving as Manager and when he had retired. Audit report which forms the basis of the entire allegation has been discredited on account of communication of the senior Audit officer, Cooperative Society, Gopalganj which is dated 12.03.2018.

Learned senior counsel has also referred to order of the Registrar, Cooperative Society dated 18.11.2019 (Annexure 11 to the supplementary affidavit) wherein audit report for the period in question, by which misappropriation is attributed to the petitioner has been found to be unreliable and the decision has been taken by the Registrar, Cooperative Society that audit for the period in question is to be done afresh. On the basis of such audit report, learned senior counsel for the petitioner submits that petitioner is apprehending his arrest in the instant case.

Learned counsel for the informant submits that misappropriation alleged is in respect of deposit by farmers in the PACS. The offence is having socio economic implication. Also bail of co-accused has also been disallowed in Cr. Misc. no.74976/2019.



Communication of the Registrar, Cooperative Society which has been placed on record is very explicit that audit report has not been found to be reliable and there is a decision for getting audit done afresh. In so far as bail application of co-accused of Ashok Kumar Srivastava, this court would observe that the same was withdrawn and there is no adjudication and consideration of the issue raised by learned senior counsel in course of argument today.

Having regard to the aforesaid submissions, prayer for anticipatory bail is allowed.

In the event of arrest/ surrender within four weeks from the date of receipt of a copy of the order in the court below, petitioner shall be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Addl. Chief Judicial Magistrate XV, Gopalganj in Kateya P.S. Case no. 113/2017 subject to the condition under section 438(2) Cr.P.C and other conditions.

(1) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.



(2) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

s.hassan/-

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