

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.71474 of 2018

Arising Out of PS. Case No.-595 Year-2014 Thana- NAUBATPUR District- Patna

Santosh Kumar Son of Late Chandrika Rai, resident of Village- Pakari, P.S. Bihta, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satish Chandra

For the Opposite Party/s : Smt. Reena Sinha

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 11-01-2019 Heard Mr. Vikram Deo Singh, the learned counsel
for the petitioner and the State.

The petitioner seeks bail in anticipation of his arrest in connection with Naubatpur P. S. Case No. 595 of 2014 dated 15.11.2014 instituted for the offences under Sections 420, 406, 409, 467, 468, 471, 120(B)/34 of the Indian Penal Code.

The petitioner, who was the Panchayat Secretary of Gram Panchayat Dariyapur is alleged to have embezzled government funds in association with Mukhiya and Rojgar Sewak while getting various public works executed.

Learned counsel for the petitioner has stated



before this Court that earlier also with respect to a report regarding irregularities in the commission of public works, a case was lodged against the petitioner and others vide Naubatpur P. S. Case No. 66 of 2014 for offences under Sections 406 and 409 of the I.P.C.

The present F.I.R. is on the basis of complaint by a private party which ultimately was the basis for registration of the F.I.R. and the aforesaid complaint is primarily with the same allegation which is there in Naubatpur P. S. Case No. 66 of 2014.

In the aforesaid case, namely, Naubatpur P. S. Case No. 66 of 2014, the petitioner has been granted anticipatory bail way back in the year 2014 by a Bench of this Court in Cr. Misc. No. 23971 of 2014.

Learned counsel for the petitioner has further submitted that the drawing and disbursing officer in the Panchayat is the Mukhiya and therefore any aspect of fiscal irregularity cannot be saddled upon him, who was only a Panchayat Secretary. The execution of work is the responsibility of the Rojgar Sewak.



In the aforesaid process, the Panchayat Secretary is only an interface/link between the Mukhiya and the Rojgar Sewak. That apart, learned counsel for the petitioner has drawn the attention of this Court to the fact that in the present case, the two Mukhiyas, who are husband and wife amongst themselves and who succeeded each other on the post of Mukhiya of Dariyapur Panchayat, have been granted anticipatory bail by order dated 05.11.2015, passed in Cr. Misc. No. 37936 of 2015.

From the perusal of the order impugned, it appears that the learned court below did not accord the privilege of anticipatory bail to the petitioner primarily on the ground that the anticipatory bail was moved in the year 2018 for a case which was registered in the year 2014.

Learned counsel for the petitioner, in response to the aforesaid objection by the court below, has stated that the petitioner is about 70 years of age and was not aware that so many cases have been lodged against him for his being in the position of a Panchayat Secretary earlier.

However, considering the facts that the petitioner



was the Panchayat Secretary and the two successive Mukhiyas of such Panchayat with respect to the same offence have been granted anticipatory bail and that in three other cases, which have been lodged against the petitioner apart from the present one, the petitioner has been granted anticipatory bail in two of them, this Court directs for grant of anticipatory bail to the petitioner.

The petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M.-II, Danapur in connection with Naubatpur P. S. Case No. 595 of 2014 (Arising out of Complaint Case No. 1278(C)/2014, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

(Ashutosh Kumar, J)

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