

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16204 of 2020

Arising Out of PS. Case No.-355 Year-2019 Thana- GAYA MUFASIL District- Gaya

JAY SHANKAR KUMAR @ SRI JAY SHANKAR KUMAR Son of Jitendra Kumar Singh @ Sri Jitendra Kumar Singh Resident of Village - Koni Kutti, P.S.- Mehendiya, District-Arwal

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. The BISCOMAUN, through its Managing Director, West Gandhi Maidan, P.S.- Gandhi Maidan, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ramakant Sharma, Sr. Advocate
For the Opposite Party/s	:	Mr.Rabindra Kumar
For the Biscomaun	:	Mr.Ashish Giri

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 02-09-2020 Heard learned counsel for the parties.

This application for grant of regular bail arises out of Gaya Muffasil P.S. Case No. 355 of 2019, disclosing offences punishable under Sections 406, 409 and 420 of the Indian Penal Code.

Based on written report of an officer of Biscomaun, Patna, the F.I.R. has been registered. It has been alleged in the F.I.R. that at the relevant point of time the petitioner was posted as the Range Officer, Biscomaun, Gaya for the periods 21.04.2017 to 21.05.2017, 30.05.2018 to 23.10.2018 and 24.10.2018 to 31.03.2019. During the said period he was in



charge of wholesaling of the fertilizers to the retailers. Co-accused Rakesh Kumar was also Range Officer for certain period. It is alleged that both accused persons, in connivance with each other did not deposit the proceeds of the sale of fertilizers with the headquarter, which was noticed in the audit report of the chartered accountant for the financial year 2018/2019 to the effect that a total amount of Rs.36,38,054/- had been defalcated. The petitioner and co-accused Rakesh Kumar did not handover charge of their posts, allegedly, despite repeated reminders.

Mr. Ramakant Sharma, learned Senior counsel appearing on behalf of the petitioner has submitted with reference to the first information report that even if the case of the prosecution is treated to be correct, a total sum of Rs.3,99,657/- remained unaccounted for against wholesale of fertilizers during the period when the petitioner was working as the Range Officer. He has submitted that the rest of the amount, as is evident from the F.I.R., was allegedly misappropriated by co-accused Rakesh Kumar. In that background he submits, while disputing the allegation in the F.I.R., that the petitioner is ready to deposit a sum of Rs. 4,00,000/- in the account of Biscomaun, only for the purpose of grant of bail in the present



matter, without any prejudice to his rights and contentions before appropriate forum or Court in this regard.

Mr. Ashish Giri, learned counsel appearing on behalf of Biscomaun has vehemently opposed the prayer for bail and has argued that though according to the audit report, during the petitioner's tenure the said amount of Rs. 3,99,657/- was found to have been defalcated, the prosecution's story clearly indicates that the petitioner had actively connived in misappropriation of the total amount with co-accused Rakesh Kumar.

Be that as it may, it is evident from the F.I.R., that allegation against the petitioner is of misappropriation of Rs.3,99,657/-. Considering the plea that the petitioner is ready to deposit a sum of Rs. 4,00,000/-, in my opinion case for grant of regular bail is made out.

It may be noted that learned Senior counsel for the petitioner has argued that since the entire case of prosecution is based on documentary evidence, there is no chance of the petitioner tampering with the evidence or fleeing from the course of trial.

The Court indicates that any attempt to tamper with the evidence by the petitioner shall give a cause of action for the opposite parties to apply for cancellation of bail granted by the



present order.

In view of the undertaking given by the learned Senior counsel appearing on behalf of the petitioner, as noted above, this application is allowed. Let the amount, undertaken to be deposited, be deposited before furnishing of the sureties and bail bonds.

Subject to the aforementioned condition, let the petitioner above named be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Gaya in connection with Gaya Muffasil P.S. Case No. 355 of 2019.

It is directed that defects in the application pointed out by the Registry must be removed within two months from today.

Since there is a lockdown, the Court has considered it appropriate to adopt following procedure for communication of the present order:-

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my e-mail I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my e-mail I.D. to the Secretary, which



shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential office for documentation and future use, if any.

(iv) Let a copy of the order be communicated to the learned court below through e-mail or any other appropriate electronic mode by the Registry.

Let steps be taken by the Registry for uploading of the present order without compromising with the norms of social-distancing.

(Chakradhari Sharan Singh, J)

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