

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16949 of 2020

Arising Out of PS. Case No.-52 Year-2019 Thana- MATIHANI District- Begusarai

PREM SAGAR MISHRA Son of Sri Ranjan Mishra Resident of Village -
Swarajpur Road, Gaya, P.S. - Kotwali, District - Gaya at present - Posted at
B.D.O. Rajauli, Nawada, P.S.- Rajauli, District - Nawada, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhakar Nath Rai
For the Opposite Party/s : Mr.Shyam Bihari Singh
Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 15-07-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and Ms. Anita Kumari Singh, the learned APP appearing for the State.

This is an application for grant of anticipatory bail in connection with Matihani P.S. Case No. 52 of 2019 registered for the offence punishable under Sections 420 and 409/34 of the Indian Penal Code.

The case of the prosecution in brief is that



one Sanjay Choudhary, Up-Mukhiya of Gram Panchayat, Matihani-1, has alleged in his written report dated 12.04.2019 that under the provision of 14th Finance Commission, a scheme of street light erection was postulated and street lights, during the financial year 2016-17, were purchased at three times higher rates than the prevailing market price in collusion with the then B.D.O., Matihani Block, namely Sri Prem Sagar Mishra i.e. the petitioner herein, Panchayat Secretary, namely Ashok Singh and Mukhiya, Rekha Devi resulting in misappropriation of more than a sum of Rs. 30,00,000/-, whereafter complaint was made to the Sub-Divisional Lok Shikayat Niwaran Padadhikari, Begusarai, who after inquiry found the allegation of misappropriation to be true and then, he wrote a letter to the Chief Executive Officer, District Board cum D.D.C. Begusarai to take action against the culprits, however, no action was taken.

The learned counsel for petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he



is having a clean antecedent. It is further submitted that the informant, who is the deputy Mukhiya of the Panchayat in question, was also party to the meeting in which consent was given for installation of street light and the fact is that the informant of the present case was also a member of the Finance cum Purchase Committee, thus he is fully responsible in case the street lights have been purchased on higher rates. It is also submitted that the informant is having a bad antecedent and he has lodged the present case to falsely implicate the petitioner herein inasmuch as the petitioner had written to the informant of this case for removing the encroachment made on Government land. It is thus submitted that the entire allegations leveled by the informant are false and concocted as also the present criminal prosecution has been launched against the petitioner with malicious and ulterior motives.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances



of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the fact that prima facie, it appears that the informant has lodged the present case with ulterior motives, apart from the fact that the petitioner is a Government servant and if at all, any action is warranted against him on account of dereliction in his duties, the State Government is competent and free to take such action against the petitioner as it may deem fit and proper and moreover, the petitioner is having a clean antecedent, this Court deems it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory 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 furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate,



Begusarai in connection with Matihani P.S.Case No.
52 of 2019, subject to the conditions as laid down
under Section 438(2) of the Code of Criminal
Procedure.

(Mohit Kumar Shah, J)

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