

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66667 of 2019

Arising Out of PS. Case No.-402 Year-2019 Thana- HILSA District- Nalanda

1. Rina Devi (F) Aged about 38 years Wife of Rajiv Ranjan Kumar
2. Raj Kumari Devi (F) aged about 58 years Wife of Ram Prasad Ram
Both Resident of Village - Fatehpur, P.S.- Chiksaura, District - Nalanda.
3. Ramesh Paswan (M) aged about 42 years Son of Bahadur Paswan
4. Jitendra Ram (M) aged about 42 years Son of Ram Yatan Ram
Both Resident of Village - Makrauta, P.S.- Chiksaura, District - Nalanda.
5. Bhashi Kumar @ Bhasi Kumar (M) aged about 52 years Son of Devnarain Singh
Resident of Village - Mushadhi, P.S.- Chiksaura, District - Nalanda.
6. Shiv Kumar Verma (M) aged about 45 years Son of Bhagirath Prasad
Resident of Village - Kamarthu, P.S.- Chiksaura, District - Nalanda.
7. Vinod Prasad @ Vinod Kumar (M) aged about 51 years Son of Karu Mahto
Resident of Village - Sadarpur, P.S.- Chiksaura, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Upendra Prasad son of Late Basudev Mahto of Village and P.O. Jamsari, P.S. Bind, District Nalanda, at present Incharge Branch Manager of Nalanda Central Cooperative Bank Ltd. Branch Hilsa, District - Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. N.K. Agrawal, Sr. Advocate
For the Opposite Party/s :	Mr. Parmeshwar Mehta, APP
	Mr. Chandan Kumar , Advocate
	Mr. Siddharth Harsh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 05-03-2020 Heard Mr. N.K. Agrawal, learned senior counsel for the petitioners, Mr. Chandan Kumar, learned counsel for appearing for the Nalanda Central Cooperative Bank Ltd., Mr. Siddharth Harsh, learned counsel for B.S.F.C. and Mr. Parmeshwar Mehta, learned Additional Public Prosecutor for the State.

Petitioners apprehend their arrest in connection with Hilsa P.S. Case No. 402 of 2019 registered for the offence punishable under Sections 419, 420, 406, 120B/34 of the Indian



Penal Code, 1860 .

The allegation against the petitioners is that a sum of Rs. 57,29,57,950/- was given as loan to the PACS in question and the petitioners being the executive members of the PACS along with the Chairman and the Manager are responsible for defalcation and non- payment of the loan amount to the Nalanda Central Co-operative Bank Ltd. (hereinafter referred to as “the Bank”).

Mr. N.K. Agrawal, learned senior counsel appearing for the petitioners submits that the petitioners have unnecessarily been dragged in this case inasmuch as the Chairman of the PACS in question has filed an anticipatory bail application vide Cr. Misc. No. 68550 of 2019 in which a co-ordinate Bench of this Court has been pleased to allow the anticipatory bail application of the Chairman namely, Harendra Kumar on the basis of the undertaking given by him that he would return the loan amount of Rs. 49,67,000/- to the Bank inasmuch as the Bank has lodged a certificate case against the Chairman of the PACS only.

Mr. Chandan Kumar, learned counsel appearing for the Bank in pursuance of the order dated 24.10.2019 produces a copy of the resolution of the PACS in question dated



28.11.2016 and referring to agenda no. 3, learned counsel submits that for defalcation of the amount of cash credit, the entire Office bearers of the PACS including the executive members are responsible collectively. The copy of resolution produced by learned counsel be kept on record.

Having heard learned counsel for the parties and taking into consideration the fact that from perusal of paragraph no. 3 of the 2nd page of the resolution produced by learned counsel appearing for the Bank it would be evident that the members of the executive committee along with the Chairman of the PACS has taken a resolution that all the loan papers and the cheques would be signed by the Chairman and the Manager of the PACS -Harendra Kumar and Rajiv Ranjan Kumar respectively. It also appears that the Bank has filed a certificate case for recovery of the amount from the Chairman of the PACS only and not against the members of the executive committee of the PACS i.e. the petitioners and further the Chairman of the PACS - Harendra Kumar has taken the responsibility of refund of the amount in question in favour of the Bank and this Hon'ble Court on the basis of the undertaking given by the Chairman of the PACS- Harendra Kumar has granted anticipatory bail to him, I am inclined to grant



anticipatory bail to the petitioners.

Accordingly, let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks from the date of receipt of a copy of this order, be released on anticipatory bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M. I Hilsa in connection with Hilsa P.S. Case No. 402 of 2019, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

(Anil Kumar Sinha, J)

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