

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87065 of 2019

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

Rakesh Kumar S/o Visheshwar Prasad Singh R/o village- Hichhapur, P.S.-
Konch, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bakshi S.R.P. Sinha, Sr. Advocate Mr. Mrigendra Pratap Singh, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar, APP
For the BISCOMAUN	:	Mr. Y.V. Giri, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 07-10-2020 Heard Mr. Bakshi S.R.P. Sinha, learned Senior Advocate for the petitioner, Mr. Y.V. Giri, learned Senior Advocate for the BISCOMAUN and the counsel for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Mofassil P.S. Case No. 355 of 2019 dated 03.08.2019 instituted for the offences under Sections 406, 409 and 420 of the Indian Penal Code.

The petitioner in his capacity as Senior Field Officer, BISCOMAUN is alleged to have defalcated an amount of Rs. 36,38,054/- along with one Jaishankar Prasad. According to the FIR, the responsibility on Jaishankar Kumar is only of Rs. 4 lakhs.

Learned Senior Advocate appearing for the



petitioner has submitted that the entire allegation in the FIR is bad in as much as various amounts out of the so-called defalcated amount can be explained and major part of it is due with Dobhi and Gurua KSS. A huge amount also has been spent against the vouchers by way of office expenditure. It has also been submitted that the FIR clearly discloses that that petitioner had remained on the post on 22.05.2017 to 29.05.2018 and from 24.10.2018 to 31.03.2019 only. This fact demonstrates that Jaishankar Kumar, the co-accused, was responsible for the entire swindling of the funds. The petitioner claims that he was never handed over the charge after his joining the S.R. Office, Gaya on both the occasions.

As opposed to the aforesaid contentions raised on behalf of the petitioner, Mr. Y.V. Giri, learned Senior Advocate submits that the money belonged to the farmers and the petitioner and the another accused cannot fudge the account like this. The statement made by the petitioner in the bail petition has been disputed point-wise and it has been submitted that the entire defence of the petitioner is cooked up and has been put up only for the purposes of securing bail.

Learned Senior Advocate for the petitioner in response to the aforesaid statement has stated that now the investigation is complete and the petitioner would



not be in a position to tamper with the evidence. Apart from this, it has been submitted that the petitioner has now been dismissed from service.

On top of it, Mr. Bakshi, learned Senior Advocate for the petitioner has also submitted that because Jaishankar Kumar was granted regular bail after depositing Rs. 4 Lakhs, therefore, the petitioner also is ready to deposit Rs. 10 Lakhs before the court below but such deposit shall be subject to his rights and contentions later.

Mr. Y.V. Giri, learned Senior Advocate for the BISCOAUN though initially was reluctant to accept this offer and wanted the petitioner to pay the entire alleged defalcated amount of Rs. 32 Lakhs, but taking into account the fact that the petitioner has been dismissed from service and the investigation of this case is complete, this Court directs that if the petitioner deposits an amount of Rs. 10 Lakhs before the court below within a period of eight weeks he shall be released on bail, in the event of his arrest or surrender before the court below within a period of eight 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 Chief Judicial Magistrate,



Gaya in connection with Mofassil P.S. Case No. 355 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The BISCOMAUN would be permitted by the court below to withdraw the aforesaid amount but such acceptance of the amount would also be subject to the rights and contentions of BISCOMAUN later in the case.

The petition stands disposed of accordingly.

(Ashutosh Kumar, J)

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