

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 49007 of 2021

Arising Out of PS. Case No.-138 Year-2021 Thana- WARISLIGANJ District- Nawada

Gayatri Devi, aged about 77 years, Female Wife of Late Arjun Prasad Rajak,
Resident of and PO- Dosut, PS- Warsaliganj, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate

For the State : Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 05-10-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

2. Heard Mr. Rajeev Kumar Singh, learned counsel for the petitioner and Dr. Indihar Kumari, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Warsaliganj PS Case No. 138 of 2021 dated 24.04.2021, instituted under Sections 420 and 409 of the Indian Penal Code, 1860.

4. The allegation against the petitioner, who at the relevant point of time was the *Mukhiya* of Gram Panchayat Raj Dosut in Warsaliganj block of Nawada district, is that the toilet



under the MENREGA meant for the weaker sections of the society for which payments have been made, was not constructed to the tune of Rs. 1,88,600/-.

5. Learned counsel for the petitioner submitted that there were two enquiries held, one initially on a complaint and later on under the direction of the *Lokayukta* on the basis of some complaint and in the second enquiry, it has come that the persons who are said to be the complainant had stated that they had never made any complaint. Further, learned counsel submitted that the scheme and payment related to the year 2013-14 whereas the enquiry itself has been made in the year 2017 and surprisingly, one of the findings is that the constructed place was not being used as a toilet but for some other purpose and in some, there is finding of there being partial construction only. Learned counsel submitted that the role of *Mukhiya* is only recommending the beneficiary and thereafter making payment to them under the scheme and the construction is to be done by the beneficiaries themselves in which the *Mukhiya* i.e., the petitioner has no role. Further, it was submitted that the petitioner is a lady, aged 77 years, having retired from the post of Government school teacher in the year 2004 and is suffering from cancer. Learned counsel submitted that the petitioner has no other criminal antecedent.



6. Learned APP submitted that the petitioner being the *Mukhiya* was responsible for improper use of fund.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the role of the petitioner being only in identifying the beneficiaries and not in construction and there being no allegation of any beneficiary being fictitious and she being a lady aged 77 years, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nawada in Warsaliganj PS Case No. 138 of 2021, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall co-operate with the Court and police/prosecution. Failure to co-operate shall lead to cancellation of her bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the



notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed of in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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