IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9109 of 2021

Arising Out of PS. Case No.-266 Year-2018 Thana- AURANGABAD TOWN District- Aurangabad

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Shanti Bhushan Arya @ Shanti Bhushan Kumar Arya @ Shanti Narayan Arya, aged about 48 years (Male), Son of Late Raghuni Ram, Resident Of Purandarpur Kesho Path, P.S- Jakkanpur, P.O- G.P.O Patna, District Patna, The Then District Welfare Officer, Aurangabad, At Present Posted as Deputy Director, Welfare Department, Darbhanga Division, Darbhanga.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Sr. Advocate with Mr. Sumit Kumar Jha, Advocate
For the	:	Ms. Anita Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 10-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. P K Shahi, learned senior counsel along with Mr. Sumit Kumar Jha, learned counsel for the petitioner and Ms. Anita Kumari Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Aurangabad Town PS Case No. 266 of 2018 dated 11.09.2018 instituted under Sections 420, 409 and 120B of the Indian Penal Code.

4. This is the second attempt for bail by the petitioner as earlier such prayer was rejected by order dated 17.06.2020 in Cr. Misc. No. 71694 of 2019.

5. The allegation against the petitioner is that he being the District Welfare Officer had defalcated the Government money meant for scholarship to Scheduled Caste and Scheduled Tribe students.

6. Learned counsel for the petitioner submitted that after two years of his transfer from the post of District Welfare Officer, Aurangabad on a complaint by a private person against the Principal of one such college, whose students were also given scholarship, a three-member committee was constituted to enquire, which has given a report that funds were transferred in a highly illegal manner and paid to fictitious students for which criminal case was instituted and the petitioner was also made accused.

7. Learned counsel submitted that the enquiry was without notice to him or giving opportunity to explain with regard to the funds which may have been allocated by him at the relevant point of time. It was submitted that even otherwise the petitioner cannot be accused of embezzling or defalcating Government money sent to the respective colleges that too based on the report of the office. Thus, it was submitted that if there is any irregularity, the staff who gave a report with regard to the claim of the college is responsible. Learned counsel

submitted that the petitioner is in custody since 05.09.2019.

8. Learned APP submitted that the petitioner was required to transfer the fund directly through RTGS to the beneficiaries and instead sending the funds through cheque to the colleges for payment to students clearly indicates that the *modus operandi* was alien to the rules prescribed leading to defalcation of Government money. It was submitted that the petitioner is solely and wholly responsible for such conduct and most importantly there are two other cases of similar nature pending against him of the year 2017 whereas this case has been lodged in the year 2018.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find that any ground has been made to re-consider the prayer which was earlier rejected on 17.06.2020.

10. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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