

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3961 of 2022

Arising Out of PS. Case No.-27 Year-2018 Thana- RAGHOPUR District- Vaishali

Ujjwal Ballav @ Ujjawal Ballam @ Ujjwal Ballam Son of Ram Bachan Rai
@ Ram Bachan Singh R/o Village - Gulamahiya Bagh, Banka Ghat, P.S. -
Didarganj, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Navnit Kumar, Advocate

For the Opposite Party/s : Mr. Md. Matloob Rab, App

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 07-06-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks regular bail in connection with Raghopur P.S. Case No. 27 of 2018 instituted for the offences under Section 409 of the Indian Penal Code and later on charge-sheet has been submitted by the police under Section 353 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 23.04.2021 and has antecedent of two cases which is lodged by the same informant (BDO).

Learned counsel for the petitioner submits that prosecution case in short is that on 26.04.2018 Block Development Officer, Raghopur submitted a written complaint to the S.H.O. Raghopur alleging inter alia that as per direction given by DM Vaishali vide his letter no. 213, dated 19.04.2018, the petitioner who was the then NAZIR Raghopur block has not handed over the



charge of cash register due to this reason utility certificate of Rs. 6,35,00,400 with regard to Indira Gandhi Rashtriya Vridha Pension Scheme and other schemes has not been sent to the concerned department, therefore, it is recommended to lodge F.I.R. against the petitioner as it is deemed to be a temporary defalcation of the amount in question. Due to not handing over the charge by the petitioner with regard to other concerned registered of the Nazarat, therefore, the official work is being hampered. On the basis of this complaint, the F.I.R. was lodged against the petitioner. Learned counsel for the petitioner further submits that the Block Development Officer (informant) alleged that utilisation certificate relating to the Mukhyamantri Kanya Vivah Yojna. It is stated that two other cases also lodged vide Raghapur P.S. Case no. 48 of 2017 under Sections 467, 468, 406, 409, 120(b) of the Indian Penal Code and cases lodged against petitioner in connection with Raghapur P.S. Case No. 97 of 2019 under Sections 409 and 420 of the Indian Penal Code. It is further submitted that petitioner is innocent and he has been falsely implicated in this case and he is further stated that petitioner was an Upper Division Clerk and was posted in Raghapur Block as Nazir. He had joined on this post Raghapur Block on 27.08.2014 and he was discharging his official duty with full ability and honestly. It is further submitted that after joining his post in Raghapur Block as Block Nazir on 27.08.2014



earlier to this petitioner Jitendra Kumar was Block Nazir and he was transferred to another Block. But he did not hand over the charge of cash book to the petitioner due to which the then Block Development Officer on 03.09.2014 directed the petitioner to open new cash book. Accordingly, with the direction of the higher officer, petitioner obtained bank statement from the concerned bank of all scheme and on the basis of that opened new cash book on the same day which contained seal and signature of Block Development Officer, Raghapur. It is further submitted that it is the duty of Nazir to distribute the amount of scheme among Panchayat Secretaries through cheques under the order of Block Development Officer and the said cheques were issued under the signature of Block Development officer and further duty of the Nazir is to obtain utility report of the said amount from Panchayat Secretaries and produce before Block Development Officer on the basis thereof cash book is being maintained and utility report is being sent to the concerned Department of Government of Bihar. It is further stated by the learned counsel for the petitioner without order of Block Development Officer, Nazir cannot give an issue any amount to any employee through cash / cheque. It is further submitted that as per the order of Block Development Officer huge amount was released to the Panchayat Secretary of almost panchayats of Raghapur Block through cheque issued under the



signature of Block Development Officer and the utility report has been handed over by most of the Panchayat Secretaries which was mentioned in the cash book by the petitioner and duly verified by the Block Development Officer (informant) till 31.03.2016. Some of the Panchayat Secretaries did not submit utility reports due to which the same was not produce before the Block Development Officer and as such for that the petitioner cannot said to be responsible for this act rather Block Development Officer is empowered to take action against those Panchayat Secretaries for not sending over utility report of fund allotted to them. It is also submitted that Nazir (Petitioner) is not authority / empower to take actions against any employee of the Block. It is further submitted that petitioner has already been granted bail in another two cases bearing Raghapur P.S. Case No. 97 of 2019 and Raghapur P.S. Case No. 48 of 2017 filed by the same informant by a co-ordinate Bench of this Court vide order dated 23.03.2022 and 30.03.2022 passed in Cr. Misc. No. 48487 of 2021 and Cr. Misc. No. 64073 of 2021 respectively.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 23.04.2021, charge-sheet has been submitted in the case and the petitioner is a person with clean antecedent, let the petitioner



above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned ACJM 9th Vaishali, Hajipur in connection with Raghapur P.S. Case No. 27 of 2018 subject to the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Khatim Reza, J)

Gaurav Kumar/-

U		T	
---	--	---	--

