

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21383 of 2022

Arising Out of PS. Case No.-2 Year-2021 Thana- GHOSWARI District- Patna

Mukesh Kumar, Son of Siyaram Yadav @ Siya Yadav @ Siyasarana Yadav,
R/o Village- Gosain Gaon, P.S.- Ghoshwari, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shiv Kumar Prabhakar, Advocate
		Mr. Uma Shankar Sharma, Advocate
For the Opposite Party/s	:	Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-08-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Shiv Kumar Prabhakar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Ghoshwari P.S. Case No. 02 of 2021 registered for the offences punishable under Sections 419, 420, 409 of the Indian Penal Code.

The prosecution case is based on a written complaint filed by the Block Development Officer, Ghoshwari alleging there in that Mukhia of Gram Panchayat, Gosain Gaon along with the Panchayat Secretary and the Ward Member of the said



Panchayat including the petitioner have committed an economic irregularities by transferring more fund than the maximum limit, as directed by the Departmental guidelines.

Learned counsel appearing on behalf of the petitioner submits that the petitioner happens to be the Ward Adhyaksh of Ward no.9 of Gosain Gaon Gram Panchayat and so far the transfer of fund is concerned, the same has been made by the Mukhiya of the concerned Panchayat. It is further submitted that from the F.I.R. itself, it is evident that Mukhiya of the concerned Panchayat has transferred Rs.50,89,555/- in favour of Ward No.9 of which the petitioner is said to be the Ward Adhyaksh. It is next submitted that the guidelines with respect to 'Gramin Gali-Nali Pakkikaran Nischay Yojna' has not been circulated to any of the public representative including this petitioner. It is further submitted that it is not the case of the prosecution that any government money has been defalcated by any one. It is also submitted that as per the guidelines, the work has been executed, which is also evident from the measurement book, inasmuch as there is no irregularity on the part of the petitioner. The petitioner is in custody since 01.12.2021

On the other hand learned APP for the State opposes the bail application and submits that admittedly the fund has



been transferred by the concerned Mukhiya, but from the record, it appears that the same has been made in collusion with all the accused persons.

Having regard to the submissions made on behalf of the parties and considering the fact that the fund has been transferred by the Mukhiya, which is found more than the maximum limit and moreover the petitioner being the Ward Adhyaksh of Ward No.9 has no role to play in transfer of the fund, apart from the other materials it appear that the work has been executed and the petitioner is in custody since 01.12.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Barh in connection with Ghoswari P.S. Case No. 02 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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