

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45696 of 2021

Arising Out of PS. Case No.-594 Year-2013 Thana- BEGUSARAI TOWN District- Begusarai

Mukesh Kumar, S/O Ajay Kant Jha, R/o village- Sankarpur Bakhadda, P.S.-
Matihani, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Niraj Kumar, Adv.

For the Opposite Party/s : Mr.Bal Mukund Prasad Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 31-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard Mr. Niraj Kumar, learned counsel for the petitioner and Mr. Bal Mukund Prasad Sinha, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Begusarai Town P.S. Case No.594 of 2013 registered for the offences punishable under Sections 467, 468, 471, 420, 406, 409, 353 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner has got one criminal antecedent and he is in custody since 01.02.2021.



Learned counsel for the petitioner submits that as per the First Information Report one Navin Kumar Sharma who was posted as clerk in the office of the District Education Officer, Begusarai (Yojna and Account) was in-charge of the accounts, he opened forged and fictitious account and with the help of this petitioner and co-accused Saroj Kumar embezzled and misappropriated a sum of Rs.1,57,07,000/-.

Learned counsel submits that in course of investigation it has been revealed that the co-accused Navin Kumar Sharma had himself withdrawn a sum of Rs.1,09,00,000/- approximately from the said account. It is further revealed that in between 03.09.2012 and 05.09.2013 a sum of Rs.38,50,000/- has been transferred in the account of this petitioner and a sum of Rs.9,20,000/- was transferred in the account of co-accused Saroj Kumar.

Learned counsel submits that the petitioner was working as a Peon and he was under command of the co-accused Navin Kumar Sharma, he could not understand that Navin Kumar Sharma has transferred the amount in his account from a fictitious account opened by him. According to learned counsel for the petitioner the said Navin Kumar Sharma had influenced the petitioner, transferred the amount



in his account and then got the same withdrawn for himself.

In course of argument, learned counsel has on his own come forward to submit that at this stage the petitioner is willing to deposit a sum of Rs.50 lacs on account and without prejudice with the department and while submitting his bail bond, if bail is allowed he will deposit a sum of Rs.20 lacs and rest of the amount i.e. Rs.30 lacs will be deposited within two months in two equal installments of Rs.15 lacs each. This offer has been made on the advice to the petitioner in the light of Annexure-2 which is an order dated 03.05.2014 passed by the learned Sessions Judge, Begusarai in Anticipatory Bail Application No.1593 of 2013 in the case of co-accused Saroj Kumar. The said co-accused had been granted anticipatory bail on his depositing a sum of Rs.9,20,000/- through bankers cheque.

It has been submitted that considering that on deposit of the amount as stated above, the case of the petitioner shall at least stand on similar footing with co-accused Saroj Kumar and then he has already remained in jail for over one year and would face the trial, this Court may grant him the privilege of bail.

Mr. Bal Mukund Prasad Sinha, learned APP for the



State has opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner had been in conspiracy with the co-accused Navin Kumar Sharma and Saroj Kumar and has received a sum of Rs.38,50,000/- from the fictitious account which was opened by Navin Kumar Sharma. Learned APP further submits that though the co-accused Saroj Kumar was granted pre-arrest bail long back, this petitioner had not surrendered.

As regards the present stage of the case, learned counsel for the petitioner has made a categorical statement at the bar that till date only order taking cognizance has been passed and the trial is yet to commence.

Considering the entire aspects of the matter particularly that the petitioner has already remained in custody for more than one year, the co-accused Saroj Kumar had been granted pre-arrest bail on deposit of the amount which had gone in his account and the petitioner has himself offered to deposit Rs.50 lacs with the department on account and without prejudice and further that the trial of the case has yet to begun, the presence of the petitioner may be secured in course of trial and there is no submission on behalf of the State that release of the petitioner at this stage is likely to



result in tampering with the evidence or interfering with the course of trial, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of Shri Sandeep Chaitanya, learned J.M.-1st Class, Begusarai in connection with Begusarai Town P.S. Case No.594 of 2013, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that in terms of his own undertaking while submitting the bail bond in the learned court below the petitioner shall produce bankers cheque/demand draft of Rs.20 lacs, as the case may be, under appropriate head which will be disclosed by the District Education Officer, Begusarai within one week from the date of receipt of this order. The rest of the amount i.e. Rs.30 lacs shall be deposited by the petitioner in two equal monthly installments. If the petitioner fails to abide by the condition which is in terms of his own offer, his bail bond shall stand cancelled and he will be taken into custody.

And further condition that 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 step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

arvind/-

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

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

