

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51106 of 2022

Arising Out of PS. Case No.-107 Year-2017 Thana- GAIGHAT District- Muzaffarpur

VISHWANATH SAHNI SON OF JHALLU SAHNI VILLAGE
MUSHTAFAPUR PS AHIYAPUR DISTRICT MUZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s: Mr. Kalyan Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 16-12-2022 The matter has been taken-up through video conference.

Heard learned counsel for the petitioner and learned A.P.P
for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from today.

The petitioner seeks bail in connection with a case
registered for the offences punishable under Section 409 of the
Indian Penal Code.

The prosecution case in short is that, the Panchayat
Sachiv (informant) alleged that he has been appointed as
Panchayat Sachiv *vide* letter no. 824 dated 20.10.2016 issued by
the Block Office, Gaighat, Muzaffarpur and he is working as
Panchayat Sachiv of Kanta Piraucha (North). It is stated that



part of the record of the Panchayat was damaged in flood in the year of 2016-17. It has been alleged that his predecessor Panchayat Sachiv, namely, Vishwanath Sahani (Petitioner) did not hand-over the charge to him. He has further stated that under the facts and circumstances by the order of S.D.O. East, Muzaffarpur who appointed Shri Arun Kumar Singh, Circle Inspector as Magistrate for preparing inventory and handing over the charge of Panchayat Bhawan. On 28.03.2017 the Panchayat Bhawan was opened by breaking the lock. During preparation of inventory some documents related to Panchayat such as Cash book, Yojna register, Pass book and other important documents related to Panchayat was not found available there. It has been further alleged that due to non-availability of the important documents of the Panchayat, the Panchayat work has been badly hampered and the Government's order has also not been complied. Further, it is stated that letter no. 380 dated 24.04.2017 has been issued by the B.D.O. Gaighat, in which direction has been given to lodge the F.I.R. against the accused Ex-Panchayat Sachiv, namely, Vishawnath Sahani (Petitioner).

It is stated by the learned counsel for the petitioner that part of the record of Panchayat was damaged in the flood in



2016-17, in the meantime, new incumbent joined as Panchayat Secretary and he was transferred to other Panchayat. It is also stated that due to water logging in the Panchayat Bhawan, record was lost and damaged. However, all the monetary transactions during his officiating period was made through bank and part of the record has also been kept at the Block Office but instead of creating new register and related documents, the new Panchayat Secretary on the direction of the Block Development Officer lodged the F.I.R. against the petitioner and made him accused in this case, ignoring the natural calamity of flood. It is also submitted that all important documents of Panchayat in question was kept in another room which was under the custody of Mukhiya but in course of preparing inventory said room was not searched. It is submitted that during his officiating period the B.D.O. brought another Panchayat Sachiv (informant) without relieving the petitioner. Thereafter, the petitioner filed an application before competent authority against the B.D.O. Gaighat and that is the reason for lodging the present F.I.R. It is also submitted that there is no misappropriation of Government fund. The petitioner is in custody since 13.07.2022, he has criminal antecedent of two cases and charge-sheet has been submitted in this case.



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

Considering the facts and circumstances of this case, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) only with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Muzaffarpur. in connection with Gaighat P.S. Case No. 107 of 2017, 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. One of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife.

3. The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

4. 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)

prabhat/-

U			
---	--	--	--

