

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70354 of 2021

Arising Out of PS. Case No.-218 Year-2019 Thana- BARBIGHA District- Sheikhpura

Murari Kumar S/O Satya Narayan Prasad R/O Village- Kasar, P.S.- Ariari
(Kasar O.P.), District- Sheikhpura Petitioner

Versus

1. The State Of Bihar
2. The Block Development Officer, Barbigha, Sheikhpura
... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Rajesh Kumar, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 09-03-2022 Heard Mr. Ramakant Sharma, learned Senior Counsel for
the petitioner assisted by Mr. Rajesh Kumar, learned Advocate for the
petitioner and Mr. Jitendra Kumar Singh, learned APP for the State.

Earlier after hearing learned Senior Counsel for the
petitioner and learned APP for the State, this Court had directed that
the informant be added as O.P. No. 2.

The informant is being represented by the learned APP.

The order passed on 12.01.2022 is being reproduced
hereunder:-

“Let the Block Development Officer, Barbigha
who has lodged the FIR at the instance of Additional
Collector (Public Grievances Redressal), Sheikhpura
alleging that the petitioner has been involved in
misappropriation of money in collusion with one Bindu
Devi be added as opposite party no.2.

Mr. Jitendra Kumar Singh, learned APP for the



State accepts notice on behalf of the informant.

Mr. Ramakant Sharma, learned senior counsel for the petitioner has made two fold submissions to impress upon this Court that there is a change of circumstance which warrants consideration of the present application which has been filed after rejection of the prayer for anticipatory bail of the petitioner on earlier occasion on 22.09.2020 in Cr.Misc.No.6338 of 2020.

He submitted by referring to the paragraph '14' of the present application that one of the beneficiaries has returned the money after transfer of the petitioner from Barbigha block. Submission is that, therefore, the allegation of misappropriation of money would not be correct. Secondly, it is submitted that the co-accused Vicky Kumar who was supervisor and immediate superior of the petitioner has been granted privilege of anticipatory bail by learned Additional District and Sessions Judge-III, Sheikhpura vide ABP No.140 of 2021 but the prayer for anticipatory bail of the petitioner filed afresh in the learned court below vide ABP No.634 of 2021 has been rejected vide order dated 16.09.2021 because this Court had earlier rejected the prayer for anticipatory bail of the petitioner.

It is submitted that the said Vicky Kumar, supervisor and immediate superior of the petitioner has been granted privilege of anticipatory bail on the condition inter-alia that he will deposit 50% of the total amount



(Rs.2,40,000/-) involved in this case in two installments of 50% each. He submitted that petitioner is also ready to deposit 50% of the amount which may be found to have been disbursed to the two beneficiaries, if, the same has not been returned.

Let the informant of this case file a counter affidavit within three weeks from today. The learned APP shall receive instruction and ensure filing of the counter affidavit.

In the meantime, till further hearing, no coercive action shall be taken against the petitioner in connection with Barbigha P.S. Case No.218 of 2019 pending in the court of learned Chief Judicial Magistrate, Sheikhpura, however, the petitioner shall join the investigation and shall cooperate with the I.O.

List this case on 09.02.2022.”

Today, Mr. Ramakant Sharma, learned Senior Counsel submits that in fact in his one of the submissions, it was inadvertently informed to this Court that one of the beneficiaries has returned the money but that is not the correct fact. It is submitted that the total amount involved in this case is Rs.2,40,000/- and on the condition of deposit of 50% of that amount, the co-accused Vicky Kumar who was the supervisor and immediate superior of the petitioner has been granted privilege of anticipatory bail by a learned court below in ABP No. 140 of 2021.



Learned Senior Counsel further submits that the petitioner is ready to deposit another 50% i.e. Rs.1,20,000/- with the office of the informant i.e. Block Development Officer, Barbigha in three installments of Rs.40,000/- each. It is, thus, his submission that in order to maintain uniformity in justice, the same privilege which has been allowed to the co-accused Vicky Kumar be granted to the petitioner. The petitioner is ready to cooperate in course of investigation and as and when called upon by the Investigating Officer he will be present.

Mr. Jitendra Kumar Singh, learned APP for the State has submitted that the Block Development Officer, Barbigha has filed a counter affidavit and in his submissions the thrust is upon the return of the money. The co-accused Vicky Kumar had deposited a sum of Rs.30,000/- in Nazarat but thereafter the money has not been deposited.

Learned Senior Counsel for the petitioner has, at this stage, placed before this Court a copy of the certified copy of the order dated 03.12.2021 showing that the said co-accused has deposited another installment of Rs.30,000/-. He had earlier moved for anticipatory bail in ABP No. 22 of 2020 which was dismissed as withdrawn but later on, on the condition of deposit of Rs.1,20,000/- he has been granted privilege of anticipatory bail in ABP No. 140 of 2021.

Mr. Jitendra Kumar Singh, learned APP for the State has,



at this stage, submitted that if the petitioner is ready to deposit Rs.1,20,000/- in the office of the informant, he will have no objection if the privilege of anticipatory bail is granted to him.

Considering the entire facts and circumstances of the case and the submissions advanced before this Court and finding that the petitioner is ready to deposit Rs.1,20,000/- without prejudice with the office of the informant and the co-accused similarly situated has been granted that privilege on the similar condition and the State is also looking for the money and not to oppose the prayer for bail if the money is deposited with the informant, this Court directs that the petitioner above named in the event of his arrest or surrender within a period of four weeks from today be enlarged on bail on furnishing of bail bond of Rs.25,000/- (twenty five thousand only/-) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sheikhpura in connection with Barbigha P.S. Case No. 218 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

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 steps 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.



And further condition that while submitting the bail bond the petitioner shall submit a receipt showing deposit of Rs.40,000/- with the office of the Block Development Officer, Barbigha. If such deposit is offered within the aforesaid period, the Block Development Officer, Barbigha shall accept the same or may advise the petitioner to deposit the said amount under appropriate head.

And further condition that the two further installments of Rs.40,000/- shall be deposited by the petitioner with the informant in similar manner as stated above within next two months in equal monthly installments.

If the petitioner fails to abide by the conditions mentioned above, there will be no protection to him.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

