

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12814 of 2023

Arising Out of PS. Case No.-7 Year-2016 Thana- SHAMBHUGANJ District- Banka

1. GAUTAM KUMAR YADAV S/o Jaishankar Prasad Yadav @ Jayshankar Prasad R/o Village- Belsira, P.S.- Fullildumar, Distt- Banka.
2. Dilip Kumar S/o Jaishankar Prasad Yadav @ Jayshankar Prasad R/o Village- Belsira, P.S.- Fullildumar, Distt- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Mukherjee
For the Opposite Party/s	:	Mr. Parmeshwar Mehta
For the BSFC	:	Mr. Shailendra Kumar Singh
		Ms. Utkarsha Utpal

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 21-07-2023 Heard the parties.

2. The petitioners apprehend their arrest in a case registered for the offence punishable under Sections 406, 409, 420/34 of the Indian Penal Code.

3. The prosecution story, in short, is that the petitioners being the chairman and manager of Kaitha Pacs were allotted Rs.7,36,830/- for purchasing paddy/wheat which was not done by the petitioners and in spite of several notice they did not either deposited the money or the purchased paddy/wheat and the entire money was defalcated.

4. It is submitted by learned counsel for the petitioners that petitioners are quite innocent and have committed no offence.



They have been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. The petitioner no.1 is Ex-chairman and petitioner no.2 is Ex-Manager of Katha Pacs. The petitioners have purchased 1210 quintal paddy on 29.03.2014. the petitioners have supplied 219.60 quintals paddy to the Bihar State Food and Civil Supplies Corporation, Banka and also on 31.05.2014, the petitioners have deposited 251.20 quintals. The rest paddy which was purchased by the petitioners were kept in an open place and several request letters were given by the petitioners to the District Magistrate, on 30.05.2014 and others concerned to direct the state to receive the rest paddy which were kept on open air (Annexure-2 series). He further submits that co-accused namely, Ajit Kumar, who was also a manager, has been granted anticipatory bail by a co-ordinate Bench of this Court in Cr. Misc. No.41315 of 2022 vide order dated 12.12.2022. Petitioner no.1 has six criminal antecedent and petitioner no.2 has four criminal antecedents.

5. Learned APP for the State as well as learned counsel for the B.S.F.C opposed the prayer for anticipatory bail by submitting that the money was allotted to the Pacs for purchasing paddy from the farmers but it appears that the petitioners siphoned off the said amount for their own personal use.



6. Having regard to the facts and circumstances of the case, as the petitioner no.1 is the Chairman of the said Pacs and there is specific allegation against him, I am not inclined to enlarge the petitioner no.1 on bail. The prayer for grant of anticipatory bail on his behalf is hereby rejected.

7. However, as the petitioner no.2 is the manager of the said Pacs and similarly situated co-accused, who was also a manager of the Pacs has been granted anticipatory bail, let the above named petitioner nos.2, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Shambhuganj P.S. Case No.07 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. Accordingly, this application is partly allowed.

(Anjani Kumar Sharan, J)

shikha/-

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

