

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38093 of 2023

Arising Out of PS. Case No.-59 Year-2017 Thana- VIGILANCE District- Patna

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1. GOPAL SAH Son of Late Chandrama Sah Resident of village - Samardihan, Post - Pipra, P.S. - Karghar, Distt. - Rohtas, Presently residing at Flat No. 201 Majestic Vishnu Apartment, North S.K. Puri, P.S. - S.K. Puri, Distt. - Patna
 2. SUSHILA SAH Wife of Sh. Gopal Sah Resident of village - Samardihan, Post - Pipra, P.S. - Karghar, Distt. - Rohtas, Presently residing at Flat No. 201 Majestic Vishnu Apartment, North S.K. Puri, P.S. - S.K. Puri, Distt. - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Vigilance Investigation Bureau, Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs.Rina Sinha, APP
Mr.Arvind Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 29-08-2023 Heard the parties.

2. Learned counsel for the Vigilance Department filed a counter-affidavit in the present case. The same is taken and kept on record.

3. The petitioners apprehend their arrest in a case registered for the offence punishable u/s 13(2) & 13(1)(e) of the Prevention of Corruption Act, 1988.

4. As per the prosecution case, the petitioner no.1 is said to committed the offence of criminal misconduct of disproportionate assets having valuation of Rs.1,56,72,489/- (as



per the Vigilance report).

5. 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 due to ulterior motive. It is submitted that during investigation, the petitioners have co-operated the Investigating Officer and after investigation, the police has filed the chargesheet, summon has been issued against the petitioner no.1 but he did not appear as he has filed an anticipatory bail application in the Court below, which was rejected because of his non-appearance. It is submitted that the Vigilance Authority has not arrested the petitioners because the petitioners co-operated in the investigation. Reliance has been place upon the judgment of the Apex Court in the case of ***Mahdoom Bava v/s Central Bureau of Investigation*** as reported in ***2023 SCC Online SC 299***. It is submitted that it is a documentary witness and there is no allegation against the petitioner to tamper the witnesses. Petitioners have no criminal antecedent.

6. Learned counsel for the Vigilance Department opposed the prayer for bail by submitting that petitioners have not co-operated in the trial, which is clear from the impugned order itself.



7. Having regard to the facts and circumstances of the case and in view of the Apex Court judgment ***Mahdoom (supra)***, I am inclined to enlarge the petitioners on anticipatory bail. Let the above named petitioners, 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) each 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 Vigilance P.S. Case No.59 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. However, the petitioners are directed to appear before the Court below as and when the date is fixed and if they fail to appear twice on the dates fixed, the Court below would be at liberty to cancel the bail bond of the petitioner. Petitioners are further directed to deposit their passports (if any) before the Court below and they shall not leave Bihar without permission of the Court below.

(Anjani Kumar Sharan, J)

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