

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49793 of 2022

Arising Out of PS. Case No.-166 Year-2021 Thana- RAGHOPUR District- Supaul

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Sitaram Jha, S/o Umakant Jha, Resident of village- Bahuarwa, Ward No- 11,
P.S.- Kishanpur, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Shashank Shekhar, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 13-02-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of four weeks from today.

Heard Mr. N. K. Agrawal, learned senior counsel

duly assisted by Mr. Shashank Shekhar, learned counsel

appearing on behalf of the petitioner and the learned APP for the

State.

The petitioner seeks regular bail, who is in custody in

connection with Raghopur P.S. Case No. 166 of 2021 registered

for the offences punishable under Sections 409, 420/34 of the

Indian Penal Code.

The prosecution case is based on the written report

filed by the informant alleging therein that in the financial year

2020-2021 upon the recommendation of 15th Finance



Commission, transactions of grants of tied and untied funds was required to be made through Public Financial Management System but Panchayat Secretary and Mukhiya of Dumri Village Panchayat ignored the said instructions and defalcated the amount of Rs. 9,75,000/- with the help of various cheques. It is alleged that the petitioner, having holding the post of Panchayat Secretary, in collusion with the Mukhiya withdrawn Rs. 9,75,000/- which is, prima facie, temporary embezzlement of the fund.

Learned senior counsel appearing on behalf of the petitioner submitted that from the FIR it is evident that it is a case of temporary embezzlement and it is only the case of the prosecution that the thing which was required to be done in a certain manner that has not been done in that manner, causing temporary embezzlement. He next submitted that the aforesaid funds have received for utilizing the same to prevent the covid outbreak, however, as the Mukhiya of the Panchayat was not available and since the payment of PFMS mode requires the digital signature of the Mukhiya of concerned gram panchayat also the petitioner was unable to make any payments through the said mode in absence of the digital signature of the Mukhiya since it was not generated. He next submits that since the



petitioner holding a public post, therefore, several cases have been instituted against him on account of political rivalry, however, the particulars of the cases which have been mentioned in paragraph 3 of the application, in all the cases the petitioner is on bail. He lastly submitted that now the investigation is already complete and the charge-sheet has been submitted, however, the petitioner is in custody for about a period of nine months.

On the other hand, learned APP for the State while opposing the bail application submitted that admittedly the petitioner has found involve in withdrawing the money in complete defiance of the instructions issued by the State Government.

Regard being had to the submissions made on behalf of the parties and considering the nature of allegation pertaining to temporary embezzlement of Government money and the fact that the petitioner remained in custody for over a period of nine months and the investigation is complete, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Birpur, Supaul in



connection with Raghopur P.S. Case No. 166 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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