

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57287 of 2023

Arising Out of PS. Case No.-21 Year-2023 Thana- KATEYA District- Gopalganj

Shambhu Singh, aged about 30 years, Male, S/O Ramjit Singh, R/O Village Magahiya, P.S.- Kateya, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Birendra Pandey Son Of Late Rama Pandey R/O Vill- Khairatiy, Post-Koyaladeva, Ps- Mirganj, Dist- Gopalganj. At Present Posted As Panchayat Secretary, Gram Panchayat Raj Magahiya, Ps- Kateya, Dist- Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suresh Prasad Bhakta, Advocate
For the Opposite Party/s : Mr. Dilip Kumar No. 1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 30-08-2023 Heard Mr. Suresh Prasad Bhakta, learned counsel appearing on behalf of the petitioner and Mr. Dilip Kumar No. 1, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Kateya P.S. Case No. 21 of 2023 registered for the offence punishable under Sections 409, 420 and 120 (B) of the Indian Penal Code.

3. As per the allegation made in the FIR, from the fund allocated for the “Mukhyamantri Sat Nischay Yojana”, embezzlement has been made by the petitioner in association with Chairman-cum-Ward Member along with co-accused Harendra Yadav, who had withdrawn Rs. 44,21,000/-,



30,81,500/-, 29,27,000/-, 30,15,000/- and 26,87,500/-.

4. Learned counsel appearing on behalf of the petitioner submitted that from bare perusal of the FIR it would appear that merely on the bank statement, allegation has been made against the petitioner, who has been alleged to have withdrawn Rs. 26,87,500/-. Petitioner has performed work relating to his ward and the same would be confirmed from the meeting held for earmarking the work for the Financial Year 2017-18. Learned counsel further submitted that in absence of work order and the records of the minutes of 'Aam Sabha' of the gram panchayat, the allegation against other accused cannot be clubbed together for making petitioner responsible for withdrawal of Rs. 26,87,500/-. He further submitted that from the measurement book as well as record which has not been made part of the FIR, upon verification it would appear that the petitioner has executed the entire work which were allotted to the petitioner and after verifying the same by the government officials, the payments were made to him. Petitioner is not involved in any manner in defalcation of fund allotted for execution or work under "Mukhyamantri Sat Nishchay Yojna". Learned counsel further submitted that petitioner has clean antecedent and he is ready to abide by any terms and conditions



imposed by this Court and is also ready to compensate the amount of loss attributable to him, if the same is quantified by the duly certified chartered accountant. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. Learned APP appearing on behalf of the State submitted that from the perusal of the FIR it is not apparent that for which financial year the work was allotted to the petitioner. However, from the bank statement it would appear that altogether Rs. 2,68,75,000/- of government fund has been defalcated/ misappropriated and the petitioner is one of the associates against whom such specific allegation has been made. On these grounds, he submitted that petitioner does not deserve to be released on pre-arrest bail.

6. Having considered the rival submissions made on behalf of the parties, the report submitted by the bank manager reveals that the petitioner along with other co-accused named in the FIR have been alleged that they were involved in misappropriation of public money, which was disbursed by the Government with respect to “Mukhyamantri Sat Nishchay Yojna”. The transaction relates to Financial Year 2017 till 2022. Specific allegation is against co-accused Samundri Devi, who was holding the post of Chairman-cum-Ward Member of the



Panchayat, namely, Magahia, District- Gopalganj. Submission has been made on behalf of the petitioner that he has executed the work for the money disbursed for Financial Year 2017-18 and the entire amount of defalcation cannot be attributed to him.

7. Considering the aforesaid facts, the Court below is directed to call for the records relating to the minutes of 'Aam Sabha' of the Panchayat Magahia, District- Gopalganj as well as the records relating to the work satisfaction order including measurement book and the transaction made by the bank into the account of the petitioner. In case, the Court below finds it proper to call for the audited copy of the report with respect to the transaction made for execution of work with respect to "Mukhyamantri Sat Nishchay Yojna".

8. All the above exercise must be concluded within a period of three weeks from the date of communication of this order. Till then, the petitioner is directed to be released on **provisional bail** on such terms and conditions as the learned court below deems fit and proper.

9. In case, the work has been completed by the petitioner and from the records as mentioned above it appears that no defalcation/ misappropriation of public money has been made by the petitioner, the provisional bail granted to the



petitioner shall be made absolute on such terms and conditions as the learned court below deems fit and proper.

10. In case it is found that petitioner has defalcated/ misappropriated the public money then, in that case, this order will loose its force.

(Purnendu Singh, J)

Niraj/Nilmani

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