

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1263 of 2022

Arising Out of PS. Case No.-875 Year-2018 Thana- MOTIHARI TOWN District- East
Champaran

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GULSHAN KUMAR TIWARI S/o- Shri Satyabhushan Tiwari, Resident of
Village- Ashok Pakari, P.S.- Pipra, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Vigilance, Govt. of Bihar, Patna.
Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Advocate Mr. Anu Priyadarshi, Advocate
For the Opposite Party/s :		Mr. Uma Shankar Prasad Singh, APP
For the E.O.U.	:	Mr. Vishwanath Prasad Singh, Sr. Advocate Mr. Vijaya Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

10 17-03-2023 Heard Mr. Shri Prakash Srivastava, learned counsel

for the petitioner, Mr. Vishwanath Prasad Singh, Senior Counsel

appearing on behalf of the E.O.U. and Mr. Uma Shankar Prasad

Singh, learned Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 420, 409, 467, 468, 471,
472, 120(B), 34 of the Indian Penal Code and Section 13(1)(C)
read with Section 13(2) of the Prevention of Corruption Act,
1988 and Section 66(C) and 66(D) of the Information



Technology Act.

According to prosecution case, the accusation against the petitioner, who is stated to be assistant of a private Nazir, is regarding defalcation of a huge amount, which was meant to be paid by way of compensation to the beneficiaries, whose land had been acquired. It is also alleged that the petitioner had withdrawn huge amount from the bank account of one of the beneficiaries namely, Sukhdeo Sah, and had also transferred some amount from the said account to the account of his wife. It is further alleged that the brother-in-law, father-in-law and father of the petitioner had also mis-appropriated huge sum of money which was meant to be paid to the persons whose land had been acquired.

Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that the petitioner is not the government servant and the offence as alleged in the F.I.R. has not committed by the petitioner and the allegation as alleged in the F.I.R. is false and fabricated. He further submits that the petitioner has no role in the present occurrence and the allegation against co-accused persons namely, Jai Kishun Tiwari and Umesh Prasad Singh. He further submits that the police



after investigation submitted the charge sheet against the petitioner. He further submits that similarly situated, co-accused, persons namely, against whom the allegation has been granted bail by a co-ordinate Bench of this Court vide order dated 18.01.2023 passed in Cr. Misc. No. 49417 of 2021 and another co-accused has been granted bail by a co-ordinate Bench of this Court vide order dated 31.07.20219 passed in Cr. Misc. No. 41290 of 2019. The petitioner is in custody since 02.01.2019.

Learned counsel for the petitioner further submits that on instruction that the charge has been framed on 02.03.2023.

The learned senior counsel for the E.O.U. and learned Additional Public Prosecutor for the State have vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances as well as period of custody. let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Motihari Town P.S. Case No. 875 of 2018 (Special Case No. 13 of 2019), subject to the following conditions:-

1. Petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. 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 step 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.

(Rajesh Kumar Verma, J)

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