

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65379 of 2022

Arising Out of PS. Case No.-66 Year-2022 Thana- GOGRI District- Khagaria

PRIYABARAT SINGH S/O Late Atwari Singh @ Etavari Singh R/O
Barichak, P.S- Gogri, District- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Mrityunjay Kumar, Advocate
For the Opposite Party/s :	Mr.Ashok Kumar Singh, APP
For the Informant :	Mr. Saurabh Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 11-04-2023 Heard learned counsel for the petitioner, learned
counsel for the informant as also learned APP for the State.

The petitioner apprehends his arrest in connection with Gogri P.S. Case No.66 of 2022 instituted under Sections 406,419,420 of the IPC lodged on 04.03.2022 by the informant, Pawan Kumar Roy.

The informant, General Secretary of Gogri Bar Association, Khagaria alleged that the Ex-General Secretary (petitioner herein) misused his post and defalcated a sum of Rs.8,03,422/- of the association. He was put under notice and as he refused to accept the same, his membership was suspended, later terminated, information given to the Bihar State Bar Council, Patna and finally the FIR.

Learned counsel for the petitioner submits that



contrary to the allegation made in the FIR, one of the member of the Audit Committee subsequently gave an affidavit in his favour and the report is collusive one at behest of the informant who was the then General Secretary.

He however accepts that a fresh audit can throw light on the actual financial status of the Association on the point whether there was any defalcation or not. He lastly submits that without accepting the allegation and under protest, he being an ex-office bearer of the Association earlier and now that he has again been elected as General Secretary, would like to deposit the alleged amount (Rs.8,03,422/-) subject to fresh audit after which if it is found that in fact he owes some amount from the association, the same will be returned to him along with amount which he intends to deposit.

It is further submission of the learned counsel for the petitioner that for the present, at the time of his surrender, he will be depositing Rs.2,00,000/- which will be followed by Rs.1,00,000/- each every four weeks which will come to an end this year itself. Thus, he will be depositing the entire Rs.8,03,422/- in next six months and the receipts duly signed by the President and the Treasurer will be filed before the concerned court at the time of surrender and thereafter every



month till the payment is made.

Learned counsel for the informant has supported the prosecution case but accepts that if the Association is compensated with the amount which has alleged to have been defalcated by the petitioner, he do not have any objection if relief is granted.

In the aforesaid facts and on the undertaking of the petitioner that he will be clearing the entire amount alleged in the FIR within a period of six months from the date of his surrender and further will be paying Rs.2,00,000/- to the Association and a receipt thereof will be filing/submitting before the concerned court at the time of his surrender; this Court is inclined to extend him the relief.

However, it is made clear that if he fails to fulfill the undertaking and do not pay the amount, as recorded above and do not submit receipt at the time of surrender and thereafter every four weeks, the Court shall take immediate steps for cancellation of his bail bond. It is further made clear that the receipt showing payment to the Association shall be signed by the President and the Treasurer of the said Association (and not by the petitioner herein who is the present General Secretary).

Let the petitioner be released on bail, in the event of



his arrest or surrender before the Sub-ordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each in connection with Gogri P.S. Case No.66 of 2022 to the satisfaction of learned Chief Judicial Magistrate, Khagaria, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Rajiv Roy, J)

Prakash Narayan /-

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