

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71460 of 2023

Arising Out of PS. Case No.-373 Year-2023 Thana- KUCHAIKOTE District- Gopalganj

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RAMESHWAR YADAV SON OF LALBABU YADAV RESIDENT OF
MATEYA TOLA GUMAN RAI, VILLAGE - MATEYA KHAS, P.S. -
KUCHAIKOTE, DISTRICT - GOPALGANJ

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Advocate. Mr. Devashish Giri, Advocate.
For the State	:	Mr. Parmeshwar Mehta, APP.
For the Original Complainant:		Mr. Ranjeet Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 07-11-2023 Heard Mr. Y. V. Giri, learned senior counsel along with Mr. Devashish Giri, learned counsel appearing on behalf of the petitioner; Mr. Parmeshwar Mehta, learned counsel for the State and Mr. Ranjeet Kumar Pandey, learned counsel for the original complainant.

2. The petitioner seeks pre-arrest bail in connection with Kuchaikote P.S. Case No. 373 of 2023 registered for the offence punishable under Sections 409 and 420/34 of the Indian Penal Code.

3. Allegation is of defalcation and misappropriation of government money to the tune of Rs.1,67,442/- by the functionaries of the Gram Panchayat Raj Mateya Khas, Block –



Kuchaikote, Gopalganj. Petitioner was Mukhiya at the relevant point of time. Specific allegation against the petitioner is that he had instigated the accused persons named in the F.I.R. to commit such misappropriation and fraud.

4. Mr. Y. V. Giri, learned senior counsel assisted by Mr. Devashish Giri, learned counsel appearing on behalf of the petitioner submitted that the amount which has been misappropriated has already been deposited by the co-accused Shubhash Paswan in the Bank A/c No. 61310273370 (IFSC No. SBIN0031501 of the State Employment Guarantee Fund of Rural Development Department. It is further submitted by learned senior counsel that the inquiry is based on the basis of direction of this Court in C.W.J.C. No. 4666 of 2021 and a contempt petition being M.J.C. No. 1104 of 2023 was also filed for alleged violation of the specific direction of this Court by the State Authorities. The inquiry was conducted and on the basis of the said inquiry, the present F.I.R. was lodged. The petitioner being Mukhiya of the Gram Panchayat Raj Mateya Khas, Block – Kuchaikote, Gopalganj has been roped in the present case in spite of the fact that in inquiry, specific allegation is against Subhash Paswan who after admitting his guilt has deposited entire amount which was defalcated and misappropriated. A



criminal case was pending against the petitioner in which the investigating officer has found no evidence against the petitioner and as such he has been exonerated by submitting final form before the trial court. On these grounds, the petitioner deserves to be released on bail.

5. Mr. Ranjeet Kumar Pandey, learned counsel has tendered his appearance on behalf of the original complainant on whose complaint, no inquiry was conducted. Then he filed a P.I.L. before this Court and when no action was taken by the State Authorities on the direction of this Court, he was forced to file contempt petition and on the direction of this Court, an inquiry was held by the Joint Committee of the Senior Additional Collector and on the basis of the inquiry report, the District Magistrate had directed to lodge present F.I.R. finding complicity of the petitioner in the alleged commission of offence. The petitioner being Mukhiya during the period from 2014 to 2021 committed continuous offence of misappropriation and defalcation of government money, hence he does not deserve to be released on bail. Learned APP for the State has supported the argument advanced on behalf of the Original Complainant.

6. Having considered the rival submissions made on



behalf of the parties as well as the fact that the co-accused Shubhash Paswan had admitted that a sum of Rs.1,67,442/- was misappropriated which was required to be given to the MANREGA laboureres and he being responsible had already deposited the said amount in the Bank account of the State Employment Guarantee Fund being A/c No. 61310273370 (IFSC No. SBIN0031501. The petitioner being Mukhiya is only required to hold Aam Sabha to propose development work to be carried out by the different functionaries of the Gram Panchayat. The petitioner has, prima facie, made out a case to be released on bail.

7. The petitioner is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gopalganj in connection with Kuchaikote P.S. Case No. 373 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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