

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49127 of 2024

Arising Out of PS. Case No.-7 Year-2023 Thana- GOPALGANJ TOWN District- Gopalganj

Sumitra Devi Wife of Subhash Singh Resident of Village - Sukulwan Khurd,
P.S.- Gopalganj, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiv Sager Sharma

For the Opposite Party/s : Mr. Nawal Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 21-08-2024 1. Heard the parties.

2. The petitioner apprehends her arrest in connection with Gopalganj (Town) P.S. Case No. 07 of 2023 dated 02.01.2023 registered for the offence punishable under Sections 420, 409, 120(B) of the I.P.C.

3. As per the First Information Report the informant, who happens to be the Block Development Officer, Thawe, District- Gopalganj on the basis of letter no. 2616 dated 14.12.2022 of the District Panchayati Raj Officer, Gopalganj and letter no. 5569/C dated 07.12.2022 of the O.S.D., District Confidential Cell, Gopalganj lodged the present F.I.R. against the former Mukhiya - Sumitra Devi (i.e. the petitioner) for the financial irregularities committed in the implementation of Panchayat Level Schemes in the Gram Panchayat Raj Inderwan Ebadullah on the basis of the inquiry report submitted by the D.D.C.,



Gopalganj vide letter no. 674 / 22.11.2022. It is alleged that the petitioner and the Panchayat Secretary defalcated Government fund to the tune of Rs. 22,62,275/- allocated for various Panchayat schemes by fraudulently and dishonestly withdrawing the amount from Government exchequer meant for Mukhyamantri Sat-Nischay Nal-Jal Yojana of Ward Nos. 6, 8 & 14 of the Panchayat Raj Indrawan Ebadullah under Thawe Block.

4. Learned counsel for the petitioner submits that petitioner is innocent and has not committed any offence in the manner alleged. He next submits that another F.I.R. in this matter was lodged by the same authority i.e. B.D.O., Thawe vide Gopalganj Town P.S. Case No. 539 / 2018 in which the petitioner has been granted anticipatory bail vide Cr. Misc. No. 36057 of 2019. He also submits that for the same transaction, two F.I.R. have been lodged which is an abuse of the process of Court. He further submits that petitioner has been elected as Mukhiya of Gram Panchayat Raj Inderwan Abadullah for only one term i.e. 2016-2021 and the alleged occurrence is based on the enquiry report of the year 2022. The work related to the schemes in question has already been completed and this fact finds support from the measurement book of J.E., which has been approved



by the Assistant Engineer and there is no inconsistency between the work done and measurement book. The schemes under the Mukhyamantri Nal-Jal Yojana and Saat- Nischay Yojana are to be done by the Ward Vikas Samiti and there is very little role of the Mukhiya. He submits that the role of the Mukhiya is zero in the execution of works that are accomplished through the funds received from the 14th Finance Commission because these works are executed by the departmental agencies and in the works executed in this way the only responsibility of the Mukhiya is to carry out the targeted work only. Apart from this, there is responsibility of maintaining the quality of the work to be done in the right way and nothing else. Hence, the charge of misappropriation against Mukhila (i.e. the petitioner) is baseless. He further submits that there is no evidence on record to show that Government money has been transferred in the name of the petitioner as such, no offence under Sections 420 & 409 of the I.P.C. is made out against the petitioner.

5. I have heard learned counsel for the petitioner and perused the materials on record.

6. Nal-Jal connection has been given in 150 houses as per measurement book of J.E., whereas in the physical verification it was found that Nal-Jal connection has been given in only 47



houses and advance of Rs. 18,87,000/- is shown in the Yojana records which goes to show that financial irregularities have been committed by the Mukhiya of the Village Panchayat Raj Indrawan Ebadullah. From perusal of the enquiry report of the D.D.C., Gopalganj it is evident that funds received from the 14th Finance Commission was meant for expenditure incurred upon various schemes of the Panchayat and for disbursement to departmental officials, but the same was withdrawn by Subhash Singh i.e. husband of the petitioner.

7. In physical verification it was found that roads constructed under scheme nos. 01/16-17, 03/16-17 & 04/16-17 during the 14th Finance Commission fall short by a stretch of 50 feet. Insofar as Nal-Jal Yojna of Ward No. 3 is concerned, in the enquiry report it has come that during physical inspection works related to flooring, P.C.C. Chamber, Board Panel, Starter, Stabilizer and Boring Chamber have not been done, however, as per the M.B. book amount has been withdrawn under those heads. Similarly, in Ward No. 8 during physical inspection it was found that flooring work, P.C.C. Boring Chamber, Board Panel, Starter, Stabilizer, Gate Valve, Gate Valve Chamber and Boring Chamber have not been built in spite of that as per the M.B. book amount has been withdrawn under these heads.



8. Insofar as the order dated 12.06.2019 passed in Cr. Misc. No. 36057 / 2019 is concerned, it is relevant to note here that the petitioner was extended the benefit of anticipatory bail on the ground that there was no allegation that the petitioner had withdrawn the amount from Government exchequer fraudulently and dishonestly to the tune of Rs. 22,62,215/-, rather the allegation was that she did not take approval of the Committee.

9. The learned Sessions Judge, Gopalganj in its order passed in A.B.P. No. 2292 of 2023 has categorically stated that in paragraph nos. 05 & 06 of the case diary, the informant and witnesses have supported the facts alleged in the F.I.R.

10. Regards being had to submissions of the parties, nature of the allegation made in the FIR, finding arrived at by the enquiry team, I find that *prima facie* there is evidence against the petitioner that the petitioner being Mukhiya misappropriated the Government money with the help of her husband. Accordingly, I am not inclined to extend the privilege of anticipatory bail to the petitioner. The prayer for the same is rejected.

(Anil Kumar Sinha, J)

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