

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60964 of 2023

Arising Out of PS. Case No.-2 Year-2021 Thana- GHOSWARI District- Patna

Rajdev Prasad S/O Ram Pratap Ray Village- Naya Tola Bariyarpur, P.S.-
Bakhtiyarpur, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate
		Mr. Bhola Kumar, Advocate
For the Opposite Party/s	:	Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 10-04-2024 Heard Mr. Rajendra Narain, learned senior Advocate

duly assisted by Mr. Bhola Kumar, learned counsel appearing on

behalf of the petitioner and the learned Additional Public

Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Ghoswari P.S. Case No. 02 of 2021, registered for the
offences punishable under Sections 419, 420 and 409/34 of the
Indian Penal Code.

3. The prosecution case, based upon the written report
submitted by the Block Development Officer, Ghoswari, Patna
specifically alleged that in course of enquiry conducted by the
Sub-Divisional Officer, Barh in the matter of implementation of
Mukhyamantri Gali-Nali Puccikaran Nischay Yojna in Ward



Nos. 6, 9 and 10, it was found that the petitioner (Panchayat Secretary) along with *Mukhiya* of the concerned Panchayat have transferred Rs. 52,89,229/-, Rs. 50,89,555/- and Rs. 54,72,801/- respectively in the account of Ward Implementation and Management Committee (hereinafter referred to as 'Committee'). The aforesaid amounts transferred in the account of Committee is found to be more than maximum limit of prescribed expenditure and contrary to the guidelines/rules made in this behalf.

4. Learned Senior Advocate drawing the attention of the guidelines for implementation of the Scheme, in question, issued by the Panchayati Raj Department vigorously submitted that Clause 4 of the guidelines prescribes that the execution of the Scheme was to be carried out by the Committee. The Gram Panchayat have a very limited role in the implementation of the aforenoted Scheme only to the extent of granting administrative approval. Whereas, Clause 6.2 (v) of the guidelines, the Gram Panchayat is empowered to transfer the funds to the account of the Committee to carry out the execution of the work/scheme.

5. Learned senior Advocate further contended that the Committee shall consists of seven members, including the Chairman and the petitioner being Panchayat Secretary is not



even the part of such Committee. Adverting to the aforesaid facts, learned senior Advocate further contended that the petitioner being Panchayat Secretary, a Government servant, is only the signatory of the cheque along with the *Mukhiya* of the concerned Panchayat and the transfer of the funds is done only on the demand made by the Committee. Thus, the role of the petitioner is very limited and not akin to the *Mukhiya* of the concerned Panchayat, who is having supervisory jurisdiction for implementation of the work/scheme.

6. On the other hand, learned counsel for the State referring to certain paragraph of the case diary submitted that during the course of investigation, the allegation of transfer of money excess to the prescribed limit has been found true and the District Magistrate, Nalanda has also issued sanction order for prosecution against the petitioner. It is further contended that the petitioner is also carrying three other criminal antecedents of identical nature, the particulars of which is mentioned in paragraph no. 3 of the bail petition. It is lastly submitted that the prayer for anticipatory bail of the *Mukhiya* of Gram Panchayat, Ghoswari has already been rejected by the learned co-ordinate Bench of this Court in Cr. Misc. No. 43017 of 2021 vide order dated 05.07.2022.



7. Regard being had to the submissions made on behalf of the parties and considering the materials collected during the course of investigation, *prima facie*, suggesting that the petitioner being Panchayat Secretary in collusion with *Mukhiya* of the concerned Panchayat have transferred excess amount than the prescribed limit and in this way, misappropriated the huge money, which was meant for public purpose, apart from the fact, the petitioner is carrying three criminal antecedents, this Court is not persuaded to accept the prayer for grant of anticipatory bail.

8. Accordingly, the anticipatory bail application of the petitioner stands rejected.

9. It is needless to observe that if the petitioner surrenders before the Court below, within a period of six weeks, the learned jurisdictional Court shall consider the prayer of the bail of the petitioner in terms of the provisions of the guidelines and the role of the petitioner, expeditiously.

(Harish Kumar, J)

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