

Arising Out of PS. Case No.-39 Year-2024 Thana- SHYAMPUR BHATHAN District-
Sheohar

... .. Petitioner/s

Versus

... .. Opposite Party/s

For the Petitioner/s : Mr. P.N. Shahi, Sr. Adv
Mr.Mritunjay Kumar
For the Opposite Party/s : Mr.Nawal Kishore Prasad

2 26-09-2024 1. Heard learned senior counsel for the petitioner, Mr. P.N. Shahi, assisted by learned advocate, Mr. Mritunjay Kumar and learned A.P.P. for the State.

3. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 409, 467, 468, 471, 120B of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and is a Panchayat Secretary. It is next submitted that informant alleges that a 3-member committee after inquiry informed the District Magistrate that petitioner, who is Jan Sevak-cum-Incharge Panchayat, has withdrawn an amount of Rs. 72,68,224/- from Canara Bank with regard to funding of schemes proposed under



15th finance commission, thereafter an amount of Rs. 48,94,200/- was withdrawn with regard to schemes proposed under 6th state commission, further he withdrew an amount of Rs. 1,73,23,269/- with regard to schemes proposed under 15th finance commission with respect to Gram Panchayat Raj Maksudpur, thereafter withdrew an amount of Rs. 44,70,300/- with regard to implementation of schemes proposed under 6th state finance commission and also withdrew an amount of Rs. 20,94,100/- with regard to schemes proposed under the 15th finance commission to be implemented at village Rahua. It is next alleged that in inquiry, it transpired that petitioner had transferred the said amount in his account, as such, petitioner misappropriated an amount of Rs. 3,60,50,093/- hence the D.M. directed for instituting an FIR.

4. The learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case based on an inquiry conducted behind his back. It is further submitted that had an opportunity been given to the petitioner to explain his side of the case, perhaps the instant FIR would not have been instituted. It is also submitted that it absolutely does not stand to reason that petitioner being Panchayat Secretary would have withdrawn the entire amount and credited in his account



and thus would have created evidence against himself for being implicated that he has misappropriated the government fund. The learned counsel next submits that funds for 15th finance commission and 6th state finance commission are provided directly to the Panchayat in the bank account jointly operated by Mukhiya and Panchayat Secretary of the concerned Panchayat, further the funds in question were provided for 15th finance commission and 6th state finance commission schemes under Gram Panchayats - Fulkaha, Maksudpur Kararia, and Rahua. It is next submitted that in Gram Panchayat-Fulkaha, under 14th and 15th finance commission schemes, inspection and measurement of the schemes have been done by the Engineer-in-charge and from the measurement book, it would manifest that all eight schemes of the said Panchayats are complete, similarly out of ten schemes taken up under the 6th state finance commission, four schemes are complete and about 50% of work of rest of the schemes are completed, which have come to a halt after institution of the instant FIR. It is thus submitted that since the petitioner along with the Mukhiya was authorized to withdraw the amount from the account of the government, as such, the petitioner withdrew the said amount and credited in his account. It is also submitted that had petitioner had any



intention of misappropriating the amount, then definitely he would not have credited the amount in his own account. It is submitted at the cost of repetition that had an opportunity been given to the petitioner, he would have explained his side of the case and at the same time the work, which were completed, would have been inquired, but then from perusal of the allegation as alleged in the FIR, it does not even remotely suggest that petitioner misappropriated the entire amount and the work was not completed. It is next submitted that petitioner will not abscond rather will cooperate in the investigation to prove his innocence.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Shyampur Bhatha/Shyampur Bhathan P.S. Case No. 39 of 2024,



subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, it is made clear that in the event, if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial court shall be at liberty to forthwith cancel the bail bonds of the petitioner after recording reasons.

8. Let a copy of this order be sent to the concerned police station through the learned Trial Court.

(Satyavrat Verma, J)

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