

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79343 of 2023

Arising Out of PS. Case No.-52 Year-2023 Thana- RAJAPAKAR District- Vaishali

Sanjay Ram Son Of Late Shivjee Ram Resident Of Vill- Jafarpatti, P.S. -
Rajapakar, Distt- Vaishali At Hajipur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. N.K. Agrawal, Sr. Advocate Mr.Jyoti Ranjan Jha, Advocate Mr.Kumar Rajdeep, Advocate Mr.Dhananjai Kumar Singh, Advocate
For the Opposite Party/s :	Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioner and learned APP
for the State.

2. The accused-petitioner, named in the F.I.R., is apprehending his arrest in connection with Rajapakar P.S. Case No. 52 of 2023 registered for the offences punishable under Sections 409, 420, 120-B of the Indian Penal Code. He has no criminal antecedent as stated in paragraph ‘3’ of the application.

3. Allegation against the petitioner is to commit criminal breach of trust and also cheat to defalcate an amount of about Rs. 15 Lakhs being Mukhiya of Rajapakar Panchayat, District – Vaishali at Hajipur where fund was allotted by government to install open Gym in nearby school/park.

4. Mr. N.K. Agrawal, learned senior counsel appearing



on behalf of the petitioner submitted that the reason for lodging the present F.I.R. is only as purchase made by petitioner was not made by using GeM Portal, rather it was purchased from local market. It is submitted by learned senior counsel that finance rule permit purchase from local market and mere on the basis of the fact as purchase was not made from approved software platform i.e. GeM Portal, petitioner cannot be said committed any criminal breach of trust or cheating, as alleged through F.I.R. It is submitted by Mr. Agrawal, learned senior counsel that petitioner purchased Gym equipments from local market, and for that, payment was made through cheque to M/s Janki Enterprises and M/s Birju Enterprises. It is further submitted that a certificate case was initiated against petitioner for recovery of Rs. 7,48,887/- only and, therefore, the version of prosecution through counter affidavit as the defalcation was made for Rs. 14,97,774/- is apparently not convincing on its face. While concluding argument, learned senior counsel submits that petitioner is a man of clean antecedent.

5. Learned A.P.P. for the State while opposing the prayer for anticipatory bail of the petitioner, submitted that despite clean instruction from the department to purchase Gym equipments through GeM Portal, the purchase was made by the



petitioner from open market, which suggest intention of cheating on its face.

6. In view of the aforesaid factual submissions as the crux of allegation arises out of non-using GeM Portal where allegation not appears convincing *prima-facie* for criminal breach of trust and cheating, accordingly, above-named petitioner, in the event of his arrest/surrender within a period of four weeks from today, is directed to be enlarged on bail on furnishing of bail bond of Rs.10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. - IX, Vaishali at Hajipur, in connection with Rajapakar P.S. Case No. 52 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

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