(2017) 02 JH CK 0174

In the Jharkhand High Court

Case No : 3106 of 2016

Kanchan Devi APPELLANT

Vs

The State of Jharkhand RESPONDENT

Date of Decision : 10-02-2017

Acts Referred:

Indian Penal Code, 1860, Section 420, Section 468, Section 467, Section 409, Section 34, Section 419, <a href

Citation : (2017) 02 JH CK 0174

Hon'ble Judges : Anant Bijay Singh

Bench : SINGLE BENCH

Advocate : Rajiv Ranjan, Lukesh Kumar

Judgement

1. Since both the anticipatory bail applications arise out of one and the same case hence they are taken up together and disposed of by common order.

2. The petitioners are apprehending their arrest in connection with Doranda P.S. Case No. 91 of 2016, corresponding to G.R. No. 1903 of 2016 for the offence registered under sections 467, 468, 470, 409, 419, 420, 34 of the Indian Penal Code.

3. The instant case has been lodged on the basis of writtenreport of one Sudesh Kumar Verma, posted as Under Secretary, Directorate of Employment and Training, Jharkhand Ranchi alleging therein that JSSDIS (JharkhandSociety for Skill Development Initiateve Scheme) is related to to the Department of Labour, Employment Training and Skill Development, Government of Jharkhand. It is alleged that Yogendra Prasad (petitioner in A.B.A. No. 3106 of 2016) who was the treasurer of the society since the date of constitution till 06.08.2014 and Sri Baldeo Singh, the then Senior Account Clerk who was accountant since 30.04.2012 to 16.01.2015 and Sri Shashi Bhushan Prasad (petitioner in A.B.A. No. 3103 of 2016) who has remained in charge of the treasurer of the society

since 07.08.2014 to 15.11.2015, and as per the rule the certification of the cash book is necessary and the same is required to be signed by the treasurer every day. The entire liability of entry and certification of the cash registered is on the treasurer and accountant. During the working period of the above named persons about Rs. 10 crores was paid to the different VTP and Assessing Body under the Heading of training under the JSSDIS for the Skill Development Initiative Scheme without making entry in the Cash book and without certification which is against the rule. Hence in the manner, the money which was for the training of unemployed persons have not not been property entered into the cash book under criminal conspiracy. On the basis of theses allegations, the instant case has been instituted. A.B. A. No.3103 of 2016

4. Learned counsel for the petitioner appearing on behalf of the petitioner Shashi Bhushan Prasad has submitted that there is omnibus allegation against the petitioner and only allegation against the petitioner is that he has not maintained the cash book of the JSSDIS society. The petitioner was holding the post of the treasurer in the society namely, JSSDIS for the period from 07.08.2014 to 15.11.2015 only. It is further submitted that and imaginary amount of Rs. 10 crores have been mentioned inthe F.I.R to show the grave situation but it is admitted that not a single rupee hasbeen misappropriated nor there is any single rupee which has not been accounted for. Each and every transaction of even a single rupee has been through the bank and hence every record and every entries made in the bank pass book is sufficient to show that there is no embezzlement of a single rupee. It is further submitted that Government of India has created a portal namely www.sdi.gov. In and about 1200 courses are provided by the Government of India. The VTP i.e. Vocational Training Provider who are interested in providing training they have to get themselves registered through the website/portal only and not otherwise and only after proper verification by the Vocational Evaluation Committee headed by the Departmental Secretary and on the inspection report of the Inspector the same get approved. It is further submitted that the payment of staff ie. Computer operator and other expenses like maintaining of computers etc are also paid through the cheques or NIFT or RTGS and not otherwise. There is not a single cash transaction, photocopy of theentire bank statement has been annexed as annexure 2 to this application. It is further submitted that earlier to the lodgment of the present criminal case the petitioner made a letter on 21.03.2016 to the Chief Secretary, Labour, Employment Training and Skill Development Department, Government of Jharkhand, Ranchi in response to the show cause issued to the petitioner wherein the petitioner has categorically mentioned that regarding the opening of the bank account in the name of the JSSDIS and for operating the same by the Joint Signature of Secretary/Director and Treasurer and it is clearly stated that not a single amount has been defalcated, photocopy of the letter dated 21.03.2016 is being annexed herewith and marked as Annexure 3 to this petition. A.B. A. No.3106 of 2016

5. Learned counsel for the petitioner appearing on behalf of the petitioner

Yogendra Prasad has submitted that there is omnibus allegation against the petitioner and only allegation against the petitioner is that he has not maintained and certified the cash book of theJSSDIS society but it is relevant to state that the cash book has been clearly maintained till the date of the charge of the petitionerThe petitioner was holding the post of the treasurer in the society namely, JSSDIS for the period from the date of Constitution of society till 06.08.2014. It is further submitted thatan imaginary amount of Rs. 10 crores have been mentioned in the F.I.R to show the grave situation but it is admitted that not a single rupee has been misappropriated nor there isany single rupee which has not been accounted for. Each and every transaction of even asingle rupee has been through the bank and hence every record and every entries made in the bank pass book is sufficient to show that there is no embezzlement of a single rupee.It is further submitted that Government of India has created a portal namely www.sdi.gov. In and about 1200 courses are provided by the Government of India. The VTP ie. Vocational Training Provider who are interested in providing training they have to get themselves registered through the website/ portal only and not otherwise and only after proper verification by the Vocational Evaluation Committee headed by the Departmental Secretary and on the inspection report of the Inspector the same get approved. It is further submitted that the payment of staff i.e. Computer operator and other expenses like maintaining of computers etc are also paid through the cheques or NIFT or RTGS and not otherwise. There is not a single cash transaction, photocopy of the entire bank statement has been annexed as annexure 2 to this application. It is further submitted that earlier to the lodgment of the present criminal case the petitioner made a letter on 21.03.2016 to the Chief Secretary, Labour, Employment Training and Skill Development Department, Government of Jharkhand, Ranchi in response to the show cause issued to the petitioner wherein the petitioner has categorically mentioned that regarding the opening of the bank account in the name of the JSSDIS and for operating the same by the Joint Signatureof Secretary/Director and Treasurer and it is clearly stated that not a single amount has been defalcated, photocopy of the letter dated 21.03.2016 is being annexed herewith and marked as Annexure 3 to this petition. It is further submitted that not a single ingredient of any of the sections alleged by the informant in the present case is made out as there is no embezzlement of a single rupee nor there is any forgery committed nor any government money has allegedly been misappropriated by the petitioner.

6. Learned A.P.P opposed the prayer for anticipatory bail and filed counter affidavit. Relying on several paras of the counter affidavit, learned A.P.P has submitted that witnesses have fully supported the case of prosecution.

7. Case diary has been received. In para 4 of the case diary, I.O has recorded the reinstatement of the informant Sudesh Kumar Verma who has supported his case. In para 16 of the case diary,I.O has recorded the statement of one Rakesh Singh who has supported the case of prosecution and stated that petitioner Yogendra Prasad was treasurer from thebeginning of the society till 06.08.2014

and petitioner Shashi Bhushan Prasad was treasurer of the said society since 07.08.2014 to 15.11.2015 and one Baldeo Singh, cashier of the society, all they have made payment of Rs. Ten crores to the different VTPs and Assessing Bodies and they have failed to maintain cash book. This witness has further stated that one complaint was made by one Pankaj Kumar in "Mukhyamantri Jansambad" regarding the non payment of scholarship and on enquiry it was found that the amount of scholarship of Pankaj Kumar was allotted but it was deposited in the account of JSSDIS in which petitioners Yogendra Prasad, Shashibhushan Prasad were found guilty. In para 17, I.O has recorded the statement of one Budhdeo Thakur who has also fully supported the case of prosecution and he has also stated that these petitioners have made payment of Rs. Ten crores to the different VTPs and Assessing Bodies and they have failed to maintain cash book. Furtter, in para 20 , I. O has verified the cash book in which he found tampering in different pages and after supervision, the case was prama facie found under section 13(c)(d) of Prevention of Corruption Act.

8. Taking all these facts and circumstances of the case and also in view of the fact that the investigation is going on, I am not inclined to grant anticipatory bail to the petitioners. Accordingly, their prayer for anticipatory bail is hereby rejected.

