

(2019) 12 JH CK 0034

In the Jharkhand High Court

Case No : Anticipatory Bail No. 3041 of 2019

Shiv Ranjan Prasad And Ors

APPELLANT

Vs

Union of India Through C.B.I

RESPONDENT

Date of Decision : 02-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 409
Prevention of Corruption Act, 1988 — Section 13(1)(c), 13(2)
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2019) 12 JH CK 0034

Hon'ble Judges : Anant Bijay Singh, J

Bench : Single Bench

Advocate : Ajay Kumar, B.K. Prasad, Rajiv Sinha

Judgement

1. The petitioners are apprehending their arrest in connection with R.C. 02(A)/2018-R registered for the offence under sections 120B r/w 409 of the I.P.C and under section 13(2) r/w 13(1) (c) of Prevention of Corruption Act, 1988, now pending in the Court of Sri A.K. Mishra-1, learned Special Judge, C.B.I, Ranchi.

2. The prosecution case, in short, is that, the instant case has been lodged on the basis of written report of V. Lakra, addl. Superintendent of Police-cum I/C HOB, CBI/ACB, Ranchi alleging therein that a reliable information has been received to the effect that during the period from 08.11.2016 to 11.11.2016 the petitioners Chepo Oraon and Shiv Ranjan Prasad, the then treasurer/postal Assistant in Doranda Post Office entered into a criminal conspiracy with accused Dominique Joseph Minz the then Officiating post master and other unknown persons and by abusing their official dishonestly indulged themselves in the misappropriation of cash kept in the safe of the Head Post Office which was entrusted to the said accused public servants. It is alleged that petitioner Chepo Oraon was posted as Treasurer/Postal Assistant from 08.11.2016 to 10.11.2016 and Shiv Ranjan Prasad was posted as Treasurer/Postal Assistant from the period 11.11.2016 onwards whereas accused Dominique Joseph Minz was posted as

official post master during the relevant period.

3. It is further alleged that value of GC notes of denomination Rs. 1000/- & Rs. 500/- showed an unreasoned increase of Rs. 1,43,500/- in value whereas the number of the notes of denomination Rs, 100, Rs, 50, Rs. 20 & Rs, 10 showed a decrease to the tune of Rs, 1,55,690/-. Discounting a sum of Rs. 6268 from this difference, the difference comes to Rs, 1,49,422/-, which is cash allegedly misappropriated by the petitioner-Cheo Oraon, and accused Dominique Joseph Minz.

4. It is further alleged that as on 11.11.2016 Doranda HPO received 40 lacs rupees in cash by 1500 numbers of GC notes of Rs, 2000/- denominations and 10000 numbers of GC notes of Rs, 100/- denominations. As per the cash book of Doranda Head Post Office at the end of the business 11.11.2016 it had a balance of 1100 numbers of Rs. 2000 notes amounting Rs, 22,00,000 and a balance of 1600 number of Rs. 100 notes amounting to Rs. 1,60,000/-.

5. Thus Doranda HPO incurred an expenditure of Rs, 8,00,000/- in respect of Rs, 2000 notes and an expenditure of Rs, 8,40,000/- in respect of Rs. 100 notes making the total expenditure to Rs. 16,40,000/-. However, as per the cash book entries for the day ending 11.11.2016 made by the petitioner Shiv Ranjan Prasad, the total expenditure for the day was only 13,04,419. Hence an excess amount of Rs, 3,35,500 was misappropriated by the petitioner Shiv Ranjan Prasad by abusing their respective official positions. Hence, this case.

6. It appears that earlier the petitioners filed A.B.A No. 1114 of 2018 which was dismissed under order dated 09.08.2018 as it was taken note that the petitioners have co-operated in investigation and C.B.I has not taken any coercive step against the petitioners and accordingly, petitioners have no apprehension of arrest.

7. Further, it appears that Cr.M.P. NO. 1602 of 2019 filed by the petitioners for quashing of order dated 13.05.2019 by the learned court below by which process of 82 Cr.P.C was issued, and the said Cr.M.P. No. 1602 of 2019 was allowed under order dated 18.07.2019 and Cr.M.P. NO. 2394 of 2018 was dismissed as not pressed.

8. Learned counsel for the petitioners has submitted that after investigation, C.B.I has submitted charge sheet against the petitioners vide Final Form No. 09/2018 dated 26.12.2018 under sections 120-B r/w 409 I.P.C and section 13(2) r/w Section 13(1) (c) of P.C Act and accordingly cognizance was taken.

9. Further, it has been submitted that one of the co-accused of this case namely, Dominic Joseph Minz @ Dominique Joseph Minz has already been granted anticipatory bail by this Court in A.B.A. No. 2435 of 2019 under order dated 13.09.2019.

10. On the other hand learned counsel for the C.B.I opposed the prayer for anticipatory bail and produced case diary.

11. From perusal of case diary, it appears that charge-sheet has been submitted against the petitioners.

12. In the facts and circumstances of the case, as the investigation is complete, charge-sheet has been submitted, cognizance has been taken, I am inclined to grant anticipatory bail to the petitioners with cost.

13. Accordingly, the petitioners are directed to deposit Rs. 25,000/- each in the account of Advocates' Sports Club, Jharkhand High Court bearing Account no. 495810110005600, Bank of India, Jharkhand High Court Branch, IFSC Code: BK1D0004958 latest by 09.12.2019 and submit receipt of aforesaid deposition of amount before the learned court below on the date of their surrender.

14. Accordingly, the above named petitioners are directed to surrender in the Court below within four weeks from the date of this order and in the event of their arrest or surrender the Court below shall enlarge the above named petitioners on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of the Court of Sri A.K. Mishra-1, learned Special Judge, C.B.I, Ranchi in connection with R.C. 02(A)/2018-R subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

15. The petitioners are directed to deposit their passport, if any, and they will also submit Xerox copy of Aadhar Card and cell number the learned court below on the date of their surrender.

16. Let a copy of this order be communicated to the concerned court through FAX and a copy of this order be handed over to the learned counsel for the petitioners. A copy of this order be also sent to the President/Secretary, Jharkhand High Court Advocates' Association, Ranchi.