

Arjun Ram Vs. The State of Jharkhand

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Court : Jharkhand

Decided On : Mar-01-2017

Appellant : Arjun Ram

Respondent : The State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI A.B.A No. 3850 of 2016 ... Santosh Kumar Gupta .. Petitioner Versus The State of Jharkhand .. Opp. Party with A.B.A No. 3678 of 2016 ... Gulam Mustafa @ Md. Gulam Mustafa .. Petitioner Versus The State of Jharkhand .. Opp. Party with A.B.A No. 3730 of 2016 ... Arun Kumar Gahlout @ Arun Kumar Gahlot .. Petitioner Versus The State of Jharkhand .. Opp. Party with A.B.A No. 4391 of 2016 Arjun Ram .. Petitioner Versus The State of Jharkhand .. Opp. Party ----- CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH ----- For the Petitioners : Mr. Rakesh Kr. Sinha, Advocate. Mr. R.S. Mazumdar, Sr. Advocate. Mr. Pradeep Kumar, Advocate. Mr. Mahesh Kumar Sinha, Advocate. Mr. Pawan Kr. Pathak, Advocate. For the State : Mr. Deepak Kumar, A.P.P. Mr. S.K. Srivastava, A.P.P. Mr. Ashok Kumar No. 2, A.P.P. Mr. Anjani Kumar Toppo, A.P.P. ----- 06/Dated:

01. 03/2017 All the four anticipatory bail applications were heard together, as they arise from the same F.I.R. i.e. Chandwa P.S. Case No. 102 of 2016, G.R. No. 476 of 2016, registered under Sections 406, 409, 419, 420, 34, 467, 468 of the I.P.C., lodged on the basis of one written report given by Kamleshwar Narayan, Sub-Divisional Officer, Latehar addressed to Officer-in-Charge, Chandwa P.S. alleging

that Deputy Development Commissioner, Latehar conducted an inquiry in connection with the supply of smokeless chulha, sanitary fittings and other materials under Indira Awas Yojna and it transpired that Rs. 41,68,880/- was illegally paid to Santosh Kumar Gupta (petitioner in A.B.A. No. 3850/2016) Proprietor of M/s A.K. Traders by the then Block Development Officer, Chandwa namely, Arjun Ram (petitioner in A.B.A. No. 4391 of 2016) and it is further alleged that at that point of time Arun -2- Kumar Gahlout (petitioner in A.B.A. No. 3730 of 2016) was posted as Head Assistant and Gulam Mustafa @ Md. Gulam Mustafa was Urdu Typist and In-charge of Nazir in Chandwa Block. On the basis of these allegations, the instant case was instituted. Learned counsel for Santosh Kumar Gupta, petitioner in A.B.A. No. 3850 of 2016, has submitted that it is not a case that petitioner has not supplied the articles. He has purchased and supplied the articles to the beneficiaries and it was also submitted that although the occurrence is of 2013- 14, but F.I.R. was lodged in the year 2016, and the delay of two years has not been explained and the petitioner cannot be fastened with the responsibility. So, he deserves the privilege of anticipatory bail. Learned counsel for the Gulam Mustafa @ Md. Gulam Mustafa, petitioner in A.B.A. No. 3678 of 2016, has submitted that petitioner was initially appointed as Urdu Typist in the Block, but after some time, he was given charge of Nazir and he has acted on the direction of B.D.O. and he cannot be fastened with any responsibility. Learned counsel has also shown Circular of the State Government where there is categorical statement that Urdu Typist should not be assigned any financial transaction. So, he deserves the privilege of anticipatory bail. Learned counsel for the Arun Kumar Gahlout @ Arun Kumar Gahlo,t petitioner in A.B.A. No. 3730 of 2016, has submitted that petitioner was posted as Head Assistant and under orders of the BDO, he has processed the file and payment was made. It is further submitted that there is no material to connect that he has received the money in lieu of favouring Santosh Kumar Gupta. So, he deserves the privilege of anticipatory bail. Learned counsel for the Arjun Ram, petitioner in A.B.A. No. 4391 of 2016, has submitted that petitioner was posted as B.D.O. and on the basis of report submitted by his subordinate officer, he had issued the cheque. Learned APP has opposed the prayer for bail and filed counter affidavit on the basis of case diary. It is stated in para-5 of the counter affidavit, reference has been made

of para-13, 14, 20 to 25, 34 of the case diary, where witnesses -3- have supported the prosecution case. So, the petitioners do not deserve the privilege of anticipatory bail. In the facts and circumstances, I am inclined to admit Gulam Mustafa @ Md. Gulam Mustafa (petitioner in A.B.A. No. 3678 of 2016), who was admittedly working as Urdu Typist and at the relevant time, he was In-charge Nazir of the Block, on anticipatory bail. The petitioner - Gulam Mustafa @ Md. Gulam Mustafa is directed to surrender in the Court below within five weeks from the date of this order and in the event of his arrest or surrender, the Court below shall enlarge the above named petitioner on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Latehar, in connection with Chandwa P.S. Case No. 102 of 2016, corresponding to G.R. No. 476 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and subject to the further condition that on the date of surrender, he will deposit Rs. 2,25,000/- i.e. 5% of the aforesaid amount before the trial court, which shall be subject to the result of the case and thereafter his bail bond shall be accepted. In the facts and circumstances, I am inclined to admit Arun Kumar Gahlout @ Arun Kumar Gahlot (petitioner in A.B.A. No. 3730 of 2016), who was working as Head Assistant, on anticipatory bail. The petitioner - Arun Kumar Gahlout @ Arun Kumar Gahlot is directed to surrender in the Court below within five weeks from the date of this order and in the event of his arrest or surrender, the Court below shall enlarge the above named petitioner on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Latehar, in connection with Chandwa P.S. Case No. 102 of 2016, corresponding to G.R. No. 476 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and subject to the further condition that on the date of surrender, he will deposit Rs. 2,25,000/- i.e. 5% of the aforesaid amount before the trial court, which shall be subject to the result of the case and thereafter his bail bond shall be accepted. -4- In the facts and circumstances, I am inclined to admit Arjun Ram (petitioner in A.B.A. No. 4391 of 2016), who was working as Block Development Officer, on anticipatory bail. The petitioner - Arjun Ram is directed to surrender in the Court below within five weeks from the date of this order and in the event of his arrest or surrender, the Court below shall enlarge

the above named petitioner on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Latehar, in connection with Chandwa P.S. Case No. 102 of 2016, corresponding to G.R. No. 476 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and subject to the further condition that on the date of surrender, he will deposit Rs. 4,50,000/- i.e. 10% of the aforesaid amount before the trial court, which shall be subject to the result of the case and thereafter his bail bond shall be accepted. In the facts and circumstances, I am inclined to admit Santosh Kumar Gupta (petitioner in A.B.A. No. 3850 of 2016), who was supplier, on anticipatory bail. The petitioner - Santosh Kumar Gupta is directed to surrender in the Court below within eight weeks from the date of this order and in the event of his arrest or surrender, the Court below shall enlarge the above named petitioner on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Latehar, in connection with Chandwa P.S. Case No. 102 of 2016, corresponding to G.R. No. 476 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and subject to the further condition that on the date of surrender, he will deposit Rs. 18,00,000/- i.e. 40% of the aforesaid amount before the trial court, which shall be subject to the result of the case and thereafter his bail bond shall be accepted. Further, from perusal of case diary, it appears that investigation of the case is going on, therefore, all the petitioners are directed to cooperate in the investigation and also to appear in the trial court, as and when required. Further, learned counsels for the petitioners are directed to supply the cell numbers of the petitioners -5- respectively to learned APPs in respective cases and the learned APPs will supply the cell numbers of the petitioners to the I.O. and whenever the I.O. has to record the statement of these petitioners, he will give 72 hours' notice fixing date, time and place and petitioners will appear and cooperate in investigation and if the petitioners fail to appear, it is open for the I.O. to file an application through learned APPs for cancellation of bail of the petitioners. Further, petitioners will not try to influence, coerce and intimidate the prosecution witnesses and if they are found indulging in the aforesaid acts, it shall be open for the I.O. to file an application through learned APPs for cancellation of bail of the petitioners

and this Court after hearing the parties, shall pass appropriate order. Let a copy of order be sent to the court below through 'FAX' and also handed over to learned APP for transmission to the I.O. (Anant Bijay Singh, J.) Sunil/-

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