

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.49417 of 2021**

Arising Out of PS. Case No.-875 Year-2018 Thana- MOTIHARI TOWN District- East  
Champaran

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JAI KISHUN TIWARI S/o SRI RAM TAPASYA NAND TIWARI @  
TAPASYA TIWARI R/o VILLAGE-ARERAJ, P.S- GOVINDGANJ,  
DISTRICT-EAST CHAMPARAN (BIHAR).

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE PRINCIPAL SECRETARY, VIGILANCE DEPARTMENT, GOVT. OF  
BIHAR, PATNA. PATNA.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr.D.K. Tandon,Adv. Mr.Anu Priyadarshni,Adv.
For the State	:	Mr.Brajendra Nath Pandey, APP
For the E.O.U.	:	Mr.V.N.P. Sinha,Sr.Adv. Mr.Vijay Anand,Adv.

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
ORAL ORDER

6      18-01-2023                      Heard the learned counsel for the  
  
petitioner and Mr. V.N.P. Sinha, the learned Senior  
  
Counsel for the EOU assisted by Mr. Vijay Anand as  
  
also the learned APP for the State.

The petitioner seeks regular bail in  
connection with Motihari Town P.S. Case No.875 of  
2018 (Special Case No.13 of 2019), registered for  
the offences punishable under Sections 420, 409,  
467, 468, 471, 472, 120(B), 34 of the Indian Penal  
Code and Section 13(1)(C) read with Section 13(2)



of the Prevention of Corruption Act, 1988 and Sections 66(C) & 66(D) of the Information Technology Act.

The accusation against the petitioner, who is stated to be assistant of a private Nazir, is regarding defalcation of a huge amount, which was meant to be paid by way of compensation to the beneficiaries, whose land had been acquired. It is also alleged that the petitioner had withdrawn huge amount from the bank account of one of the beneficiaries namely, Sukhdeo Sah, and had also transferred some amount from the said account to the account of his wife. It is further alleged that the brother-in-law, father-in-law and father of the petitioner had also misappropriated huge sum of money which was meant to be paid to the persons whose land had been acquired.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since



16.02.2019. The learned counsel for the petitioner has further submitted that though the petitioner is an accused in three other cases, but he is on bail in the said cases. It is also submitted, by referring to one Motihari Town P.S. Case No.824 of 2018 dated 24.11.2018 that the said case was also filed containing somewhat same and similar set of allegations and in the said case, the petitioner has been granted bail by a co-ordinate Bench of this Court vide order dated 24.06.2021 passed in Cr. Misc. No.5373 of 2021, hence, it is submitted that as far as the present case is concerned, since the petitioner is being prosecuted on the basis of same set of allegations, the same amounts to double jeopardy. Lastly, it is submitted that the petitioner is ready to abide by such conditions as may be deemed fit and proper to be imposed for the purposes of grant of bail.

The learned Senior Counsel for the E.O.U., Shri Vishwanath Prasad Sinha, assisted by Shri Vijay Anand, has submitted by referring to



the case diary and the materials available on record that modus operandi of the petitioner was to mis-appropriate the money meant for payment to the beneficiaries whose land had been acquired and the petitioner in connivance with other co-accused persons had misappropriated the same and in the process has embezzled Government's money, hence, he is not entitled to bail, inasmuch as he has engaged in commission of an economic offence, effecting the society at large.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also those available in the case diary, this Court finds that though materials are available in the case diary, as pointed out by the learned Senior Counsel for the E.O.U., to suggest the complicity of the petitioner in the alleged crime, however, considering the period of incarceration of the petitioner, I deem it



appropriate to direct for release of the petitioner on bail immediately upon framing of charges in the present case by the learned trial court, subject to such conditions as may be deemed fit and proper to be imposed by the court of learned Special Judge, Vigilance, Muzaffarpur in connection with Motihari Town P.S. Case No.875 of 2018 (Special Case No.13 of 2019).

The petition stands disposed off with the aforesaid observations and directions.

**(Mohit Kumar Shah, J)**

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