

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6154 of 2015

Arising Out of PS.Case No. -86 Year- 2013 Thana -LAUKHA District- MADHUBANI

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Md. Mahmood Alam Son of Late Md. Gulsher Resident of Village Kamalpur, P.S. Laukaha, District Madhubani	 Petitioner
Versus	

The State of Bihar	 Opposite Party
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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha

For the Opposite Party/s : Mr. Nagendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 30-07-2015

Heard learned counsel for the parties.

Having regard to the fact that the petitioner faces prosecution for offence under section 408 of the Indian Penal Code and admittedly had not handed over the charge of his post of Headmaster of Prathmik Vidyalaya, Muslim Tola, Bishanpur till institution of the F.I.R. despite being placed under suspension, this Court was not inclined to grant privilege of anticipatory bail to the petitioner but then learned counsel for the petitioner has submitted that the petitioner subsequently on 26.12.2013 has handed over complete charge of the office except one Pass-book of the Building Construction fund.

This Court also finds some support of such submission from paragraphs no. 5, 6, 7, 8 and 19 of the case diary as with regard to handing over of the charge of the post held by the petitioner only after lodging of the F.I.R.

Since this is not very clear as to whether the petitioner has



handed over the entire charge of the office held by him, it would direct the petitioner, Md. Mahmood Alam, to surrender before the court below within a period of four weeks from today and if he does so, he shall be granted provisional bail for a period of one month in which period he must obtain a written proof of his handing over charge by his successor Headmaster of the school which would be duly endorsed by the District Education Officer. In fact it would be the report of the District Education Officer submitted direct to the court below as with regard to the petitioner handing over the entire charge of the office of the Headmaster of the school that will be making the petitioner eligible for confirmation of his provisional bail. In other words, if the authorities of the Education Department headed by the District Education Officer still report that the petitioner has not handed over the charge of the entire document/ accounts including that of Pass-book of the Building Construction fund, the petitioner shall be taken into custody but on the other hand, if the court below is satisfied that the petitioner has given full charge of the post held by him, this provisional bail shall be confirmed.

Subject to the aforementioned conditions, if the petitioner, Md. Mahmood Alam, surrenders before the court below within a period of four weeks from today, he shall be released on bail on

furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri D.N.Mishra, Judicial Magistrate, 1st Class, Jhanjharpur, District Madhubani in Laukaha (Lalmaniya) P.S.Case No. 86/2013, G.R.No. 1697/2013, also subject to the following conditions:

(i) That both the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the bailor shall also state on affidavit that he will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iii) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

surendra/-

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(Mihir Kumar Jha, J)