

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18617 of 2013

Arising Out of PS.Case No. -329 Year- 2012 Thana -SHASTRINAGAR District- PATNA

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Shyam Bihari Upadhyay, S/O Sri Gupteshwar Nath Upadhyay, Resident
Of Village- Khakrahi, P.S.- Itadhi, District- Buxar.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr.Y.V. Giri, Sr. Advocate
Mr. Ashish Giri, Advocate

For the Opposite S t a t e : Mr. S.Dayal, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

6 01-04-2015 The petitioner functioned as Director of Forensic

Science Laboratory, Patna between 20th February, 2008 and 20th

August, 2010. Shastri Nagar P.S. Case No.329 of 2012 for the

offences punishable under Sections 466, 467, 468, 471, 477,

477A, 406 and 120B/34 of the Indian Penal Code was registered

against him on a complaint submitted by the administration of the

Laboratory alleging that the petitioner resorted to financial

irregularities during his tenure.

The allegations against the petitioner are of issuance of
wrong FSL report in a case and of waste of money by holding one
day forensic awareness programme for High Court Judges and
other officials.

Apprehending his arrest, the petitioner filed A.B.P.

No.6196 of 2012 before the court of the Sessions Judge, Patna. The same was dismissed on 2.4.2013. Hence, this application for grant of anticipatory bail under Section 438 of Cr.P.C.

Heard Shri Y.V. Giri, learned Senior Counsel for the petitioner and learned A.P.P. for the State.

This case was listed before this Court for the first time on 15.5.2013. While calling for the case diary, this Court directed that no coercive steps shall be taken against the petitioner.

The petitioner is a Senior Officer of the Department. The allegations against him are in relation to his tenure between the years 2008 and 2010 at Patna. It is not even alleged that the petitioner made any effort to meddle with the evidence or threatening the witnesses. Arrest of such Senior Officer on the basis of such allegations would not achieve meaningful purpose, on the other hand, would hit the morale of the officer in the Department. The truth or otherwise of the allegation made against the petitioner needs to be dealt with at the trial of the case. Apart from this, if any disciplinary proceedings are initiated, it can be taken to its logical conclusion in accordance with law. This Court is of the view that the arrest of the petitioner is not warranted in the facts and circumstances of the case. Hence this application is allowed.

In the event of arrest, the petitioner is directed to 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 the learned Chief Judicial Magistrate, Patna, in connection with Shastri Nagar P.S. Case No.329 of 2012, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(L. Narasimha Reddy,CJ)

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