

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39377 of 2014

Arising Out of PS.Case No. -125 Year- 2014 Thana -NAWANGAR District- BUXAR

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Anil Kumar Choubey

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti

For the Opposite Party/s : Mr. Yogendra Kumar(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

2 18-03-2015

Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in a case registered for offences punishable under sections 406, 409, 420, 120B/34 of the Indian Penal Code.

The allegation against the petitioner is that he had purchased and erected the solar light not from the authorized dealer as per directions of the Government, rather from unauthorized dealer on higher rate than the approved rate.

It has further been alleged that on account of such purchase of the Solar Street Lighting System and installation the lights had not been functioning well which has caused loss much to the State exchequer. Consequently, the District Magistrate, Buxar had directed the office to conduct an enquiry and as a consequence thereto, a report has been submitted with the charges

as have been levelled against the petitioner.

Learned counsel for the petitioner further submits that though there are allegations of financial irregularities in the purchase of Solar Street Lighting System on account of selection of wrong agency for purchasing the same, The District Magistrate had himself earlier indulged in making similar purchases from the agency from which the petitioner had also purchased in this context. Learned counsel for the petitioner has drawn my attention to Annexure-10 series, which are orders passed by the District Magistrate, Buxar regarding the purchase of Solar Street Light from the agency manufactured by TATA BP.

Learned counsel for the petitioner submits that purchases of Solar Street Lighting System in his Panchayat were also from TATA company which was an agency duly authorized and therefore, the allegation is only frivolous as against the petitioner.

Learned counsel for the petitioner has also brought on record certain orders passed by this Court in which the several other petitioners, who have been facing prosecution for similar allegations have been granted privilege of anticipatory bail (Annexure-11 series).The case of the petitioner is similarly situated, so he may also be extended the same privilege of bail.

It is also submitted by the petitioner that the circular in question which formed the substance of allegation was for the first time circulated by the Panchayati Raj Department only on 22nd February, 2010 where as purchases in question were made in the year 2007-08 and 2009-10 and therefore, the petitioner can not be made victim on the same count.

Considering the aforementioned submissions and facts that the District Magistrate, Buxar had himself recommended the purchase of Solar Street Lighting System from company such as TATA 'BP' and also the fact that this Hon'ble Court has extended the privilege of anticipatory bail to the similarly situated persons, let the above named petitioner, in case of arrest or surrender within a period of four weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in Nawanagar P.S. Case No. 125 of 2014, subject to condition as laid down under Section 438(2) of Cr. P.C.

(Anjana Mishra, J)

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