IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23683 of 2014

Arising Out of PS.Case No. -74 Year- 2014 Thana -KOTWALI District- MUNGER

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Mazid Ahmad, S/o Md. Shahzad, R/o Mohalla - Tapkhama Bazar, P.S. - Kotwali, P.S.+District - Munger

.... Petitioner/s

Versus

The State of Bihar through Cabinet Vigilance

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Sinha, Advocate
For the Opposite Party/s : Mr. Vishwanath Prasad Singh, Sr. Advocate (EOU)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

12 07-09-2015 Heard learned counsel for the petitioner and Mr. Vishwanath Prasad Singh, learned Senior Counsel appearing on behalf of Economic Offence Unit (E.O.U.).

The petitioner is apprehending his arrest in connection with Special Case No.37 of 2014 arising out of Kotwali P.S. Case No.74 of 2014 registered for the offences under Sections 406, 409, 420, 467, 468, 471, 120B of the Indian Penal Code and Sections 7, 12, 13, 14 of the Prevention of Corruption Act, 1988 and Sections 65, 66(ii), 72 of the I.T. Act. 2000.

It is submitted on behalf of the petitioner that the present F.I.R. is instituted under some miscalculations made by the Excise Department and on account of the laches of the officials and staff of the Excise Department as the licence fee, which had been deposited by the petitioner earlier, was not found to be on record as against his name. Accordingly, by letter No.243 dated 5.3.2014, the petitioner was asked to deposit an amount of Rs.5,00,000/- by way of licence fee for the financial year 2013-14 as it had been found that Challan No.63 dated 13.6.2013 purported to have been deposited by him was of only Rs.13,000/- whereas it should have been for a sum of Rs.5,13,000/-.

It appears that simultaneously an F.I.R. was registered against the petitioner alleging a defalcation of Rs.5,13,000/- and subsequently after some calculations, the petitioner is alleged to have not deposited defalcated amount of Rs.27,02,400/-.

Learned counsel for the petitioner submits that despite the fact that the petitioner has deposited Rs.5,13,000/- already, he is facing criminal prosecution and is apprehending his arrest for no fault of his own.

A counter affidavit has been filed by the E.O.U. stating that the petitioner Mazid Ahmad has deposited Rs.1,66,000/- on 22.2.2014 and Rs.5,13,000/- on 25.2.2014, totalling a sum of Rs.6,79,000/-. This appears to be in addition to Rs.5,00,000/- deposited by the petitioner, vide Challan No.09 dated 6.3.2014.

Learned Senior Counsel appearing for the E.O.U. has seriously urged that the petitioner, being an absconder, is not entitled to the benefit of anticipatory bail and he has indulged in mass scale defalcation causing loss to the State exchequer.

However, considering the rival submissions and the fact that though the FI.R. has stated only a figure of Rs.5,13,000/- and subsequently the petitioner has also deposited Rs.5,00,000/- in an effort to prove his *bona fide,* let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of three weeks from the date of receipt/production of a copy of this order, 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 Special Judge, Vigilance-2, Patna, in connection with Special Case No.37 of 2014 arising out of Kotwali P.S. Case No.74 of 2014, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anjana Mishra, J)

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