

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4893 of 2015

Arising Out of PS.Case No. -189 Year- 2014 Thana -BAHERI District- DARBHANGA

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Abrar Ahmad Khan S/O Late Ashfaq Ahmad Khan Resident of vill-
Kothiya,P.S-Kamtaul,Distt.-Darbhanga

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Zeyaul Hoda, Adv

For the Opposite Party/s : Mrs. Rita Verma, (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

8 05-08-2015 Heard learned counsel for the parties.

2. Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-409 and 420 of the Indian Penal Code, this Court on earlier occasion in course of hearing this application on 30.07.2015 on being raised a specific plea by learned counsel for the petitioner that no fund was entrusted to the petitioner in capacity of headmaster of the school for providing mid day meal to students, had passed the following order:-

“Having regard to the fact that the petitioner, In-charge Headmater of Madhya Vidyalaya, Baghauni in the district of Darbhanga, facing prosecution for offence under sections 409 and 420 of the Indian Penal



Code has submitted that no fund was ever made available to him for Mid Day Meal Scheme in the alleged period and yet he is being subjected to an allegation of embezzlement of fund by submitting false Prapatra 'Ka', the statement showing continuance in the Mid Day Meal Scheme in the school in question, this Court would direct the District Education Officer, Darbhanga to appear in person alongwith the Block Education Officer, Baheri, who has lodged the F.I.R. against the petitioner alongwith all the relevant materials including Prapatra 'Ka' submitted by the petitioner on the basis of which such allegation in the F.I.R. has been made.

Put up this case on next Wednesday (5.8.2015) when the District Education Officer, Darbhanga alongwith Block Education Officer, Baheri shall remain present in person with the relevant records.

The interim protection given to the petitioner is extended till 5.8.2015."

3. Today, Mr. Deep Narayan Yadav, District Education Officer, Darbhanga and Mr. Uttam Prasad, Block Education Officer, Baheri, Darbhanga have appeared and produced the original records showing monthly progress report submitted by the petitioner from January-2014 to June-2014 and they clearly contain the statement of the petitioner in the prescribed proforma that he had received certain amount in the month from January-2014 to March-2014. It is only from the month of April-2014 that the receipt of the amount has been shown to be nil. The allegation therefore, made against



the petitioner in the F.I.R. and that too on the basis of statement of number of students of the school that they were not being provided with the meal and its fund was being misappropriated by the petitioner cannot be said to be wholly without substance.

4. Having thus arrived at this finding, this Court is not impressed with the rest of the submission of learned counsel for the petitioner that the some of the witnesses have stated before the police as recorded in the case diary that the fund was not given to the petitioner because the Chairman of the Committee was not available or that the petitioner has got no criminal antecedent. The gist of allegations against the petitioner is for the misappropriation of Government money, and when this Court on perusal of monthly statements submitted by the petitioner has found that he was in receipt of fund which were not properly utilized and accounted for the purpose of providing the midday meal to the students of school as specifically alleged in the

F.I.R. it cannot be held for the present that such allegation are either baseless or concocted.

5. In that view of the matter, this Court is not inclined to grant the privilege of anticipatory bail to the petitioner.

6. That being so, the prayer for anticipatory bail of the petitioner is hereby rejected.

7. The interim order of stay passed earlier is also accordingly withdrawn.

8. Nothing said in this order, however, will come in the way of the petitioner in surrendering before the Court below and seeking regular bail.

9. The personal appearance of Mr. Deep Narayan Yadav, District Education Officer, Darbhanga and Mr. Uttam Prasad, Block Education Officer, Baheri, Darbhanga, is hereby dispensed with.

(Mihir Kumar Jha, J)

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