

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43238 of 2016

Arising Out of PS.Case No. -56 Year- 2016 Thana -KARAHGAR District- SASARAM (ROHTAS)

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Brij Bihari Singh, S/o late Ram Lakhan Singh, R/o Village- Sanbarsha, P.O.
- Nadaua, P.S.- Natwar, District Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar
2. Krishna Kumar Singh, S/o Unknown, Block Education Officer Kargahar,
P.S. Kargahar, District Rohtas at Sasaram.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Adv.
Ms.Nikki Singh, Adv.

For the Opposite Party no.1 : Mr. Akshay Lal Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 06-10-2016

Heard.

The petitioner apprehends his arrest in a criminal prosecution registered under Sections 467, 468, 471, 420 and some other minor or bailable offences under the Indian Penal Code.

The learned counsel appearing on behalf of the petitioner submits that the petitioner is a Panchayat Secretary and, according to prosecution case, he is alleged to have not furnished the folder file relating to employment of panchayat teachers of the gram panchayat. He further submits that during the relevant period he was not posted there and his predecessor had not handed over the folder file. Therefore, he could not furnish the folder file, but that itself does not constitute an offence of forgery or cheating punishable under Sections 467, 468, 471 and 420 of the Indian Penal Code. He also submits that the petitioner is a government servant and he is the first offender.

The learned Addl.P.P. appearing on behalf of the State, though has opposed the prayer for anticipatory bail, but he has not been able to dispute the aforesaid submissions.

Be that as it may, taking into consideration the nature of allegation as disclosed in the FIR vide Annexure-1 and also taking into consideration the fact that co-accused Kedar Ram, with almost identical allegations, has been granted anticipatory bail by a co-ordinate Bench of this Court by an order dated 01.09.2016 passed in Cr.Misc.No.35679 of 2016 (Annexure-6) and also taking into consideration the fact that the petitioner is said to be the first offender, this Court is inclined to accede to the prayer made on behalf of the petitioner for grant of anticipatory bail. Accordingly, his prayer for anticipatory bail is allowed.

In the event of his arrest or surrender in the court below within a period of four weeks from today, let the above named petitioner be enlarged on bail on furnishing bail bond of Rs. 25,000/- with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-II, Rohtas at Sasaram in connection with Kargahar P.S. Case No. 56 of 2016 (G.R.No.669 of 2016), subject to the condition as laid down under Section 438(2) of the Cr.P.C. and subject to further conditions that:

- (A) One of the bailors must be government servant or close family members of the petitioner, who will file an affidavit in the court below showing his/her relationship with the petitioner,
- (B) if the petitioner is found involved in same and similar nature of cases in future, then in that case the informant/prosecution shall be at liberty to file a petition for cancellation of bail of the petitioner,

and if such a petition is filed, the court below would be obliged to dispose of the same in accordance with law after giving opportunity of hearing to all concerned;

(C) the petitioner shall make regular pairvi in the court below in the present case either by appearing himself in person or through representation by his lawyer on each and every date, and if on two consecutive dates petitioner fails to make pairvi, then the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Prasad Verma, J)

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