

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34799 of 2016

Arising Out of PS.Case No. -99 Year- 2015 Thana -C.B.I CASE District- MUZAFFARPUR

1. Dipu Kumar S/o Sri Devendra Kumar Choudhary, the then Block Development Officer, Lahladpur Block, District Saran at Present working as Senior Deputy Collector, Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar Through Vigilance

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr.Prasant Kumar Jha, Advocate
Mr. Krishan Kumar, Advocate
For the Opposite Party/s : Mr. Ramakant Sharma (L.O.,I/C Vig.)
Mr. Santosh Kumar Pandey, Advocate

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 31-08-2016 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the Vigilance Department.

The petitioner apprehends his arrest in connection with Special Case No. 43/2015 arising out of Vigilance P.S. Case No. 99/2015 registered for the offence punishable under Sections 420, 467, 468, 471, 120B/201 of the Indian Penal Code read with 13 (2) and 13 (1) (d) of Prevention of Corruption Act, 1988.

The prosecution case, as per the written report by Mr. Munna Prasad, the Deputy Superintendent of Police, Vigilance Investigation Bureau, Patna is that in pursuance to the order of the High Court in a writ petition regarding large scale irregularities in appointment of Panchayat teachers since 2003, the Vigilance Bureau is investigating cases. It is also alleged that

before instituting F.I.R., Vigilance Bureau, Patna made an enquiry and after recording the evidence of witnesses, Enquiry Officer found that there was irregularities in the appointment of Teachers by the petitioner along with Mukhiya and Panchayat Sachiv. The allegation upon the petitioner is that the Panchayat Teachers were appointed in violation of various Rules i.e. Rule 4 (2), 9 (ii) of Bihar Panchayat Primary Teachers (Appointment condition) Rules, 2006 (hereinafter referred to as Rules). Learned counsel for the petitioner submits that it is a fact that the petitioner was posted as Block Development Officer at Lahladpur in the year 2006 having no role in making appointment of a Primary Teacher in terms of Rules or in terms of any guideline or circular, issued by the State time to time. It is also submitted that the petitioner was posted as Block Development Officer and as per the Rules, there was a Selection Committee for appointment of Panchayat Teachers and even as per the allegation, the Selection Committee is responsible for making illegal appointment in which the petitioner has no role to play. He submits the complaints are lodged before him as per Rule 18 of the Rules, and as soon as large scale bungling was brought to the notice of the petitioner, the entire first phase of counseling was cancelled on 05.12.2006 by him with intimation to the Mukhiya and Panchyat Secretary and no overt act has been committed by him as he is not the appointing authority nor was a member in the selection process.

However, learned counsel appearing on behalf of the Vigilance Department submits that the matter is under investigation, hence, opposes the prayer for bail.

Be that as it may, since the petitioner is a Government servant and he is agreed to co-operate with the investigation and undertakes to produce all papers in his custody, let the above named petitioner, in the event of his arrest or surrender before the learned Court below within a period of eight weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance North Bihar, Muzaffarpur in connection with Special Case No. 43/2015 arising out of Vigilance P.S.Case No. 99/2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It may be noted that since the petitioner is directed to appear before the police /court as and when required and on failure on two consecutive dates without any reason will entail cancellation of his bail bonds by the learned court below without being prejudiced with this order.

(Nilu Agrawal, J)

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