

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31348 of 2016

Arising Out of PS.Case No. -287 Year- 2013 Thana -BUDDHACOLONY District- PATNA

B. Krishnaswamy, S/o Belarangappa, R/o Railway Golla Hally,
Nelamangala Taluk Bangalore 562123.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
Mrs. Namrata Dubey, Advocate
For the State : Mr. Parmeshwar Mehta(APP)
For the Informant : Mr. P.K. Shahi, Sr. Advocate
Mr. Manish, Advocate
Mr. Sanjay Parasmani, Advocate

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

12 06-10-2016 I have heard parties.

The petitioner apprehends his arrest in Buddha Colony
P.S. Case No.287 of 2013 registered for the offences punishable
under Sections 406, 420, 467, 468/34 of the Indian Penal Code.

The informant claims to be an employee of Lakshmi
Cement & Ceramics Industries Ltd. and power of attorney holder
on behalf of its Board of Directors to lodge a complaint against the
accused persons including the petitioner for forgery committed by
them. It is stated therein that Mr. B.R. Shetty, proprietor of the
Company which was appointed as Auditor of the Company by the
earlier management of the Company, was auditing account of the



company for the financial year 2005-06. When the Auditor was asked to audit the financial account of the Company for the year 2009-10 by the current management, it refused to recognize the current management or surrender audited accounts to them in connivance of the earlier Directors, which has resulted in trouble in filing of the returns of the year 2009-10 and Registrar has filed cases against the Directors of the Company including the informant for such omission.

It is contended on behalf of the petitioner that so far as this petitioner is concerned, there is no specific allegation against him save and except made in paragraph 6 of the FIR that the petitioner and others have acted in connivance to forge documents of the Company including the financials of the Company for the year 2009-10. However, it is not stated anywhere that what act was done specifically by the petitioner, whereas, so far other Directors, namely, B. Ramaswamy and Mr. M. Srinivasaiah are concerned, it has been stated in paragraph 4 of the FIR that audited financial accounts were signed by them as Directors, though they were no more Directors of the Company in the year 2009-10. Such allegation has not been made on the petitioner rather a vague allegation of hatching a conspiracy has been made against him.

Mr. P. K. Shahi, learned Senior Counsel appearing on

behalf of the informant has stated that after registering the First Information Report, Patna police went to Bangalore to arrest the petitioner and, in fact, he was arrested but while he was taken to the nearest police station, he somehow managed to escape. Thus, it is contended that once the petitioner was arrested, pre-arrest bail cannot be granted to him and, as such, this application would not be maintainable. He has placed reliance upon a decision of the Apex Court rendered in ***AIR 2008 Supreme Court 1083***.

Per contra, it has been submitted on behalf of the petitioner that though the police came to arrest him but when the petitioner produced a medical certificate that he is suffering from H.I.V., the police personnel fled away without arresting him, therefore, it is contended that he was practically not taken in custody and, as such, this application would be maintainable.

The petitioner has submitted that the Patna police has lodged a false FIR in Bangalore that the petitioner had escaped from the custody which was found false and Bangalore police, after investigation, submitted charge sheet exonerating the petitioner which has been accepted by the court concerned. In the aforesaid background, it is submitted that pre-arrest bail would be maintainable.

It is further urged that several other co-accused persons



have already been granted anticipatory bail. The petitioner has produced an order dated 17.03.2016 passed in Cr. Misc. No.7112 of 2016 to impress upon this Court that the alleged previous Directors against whom there is allegation of tampering with the record, such as, M. Srinivasaiah and the concerned Auditor B. Ramakrishna Shetty and another co-accused B. Ramaswamy have already been granted anticipatory bail in this matter.

Be that as it may, in view of the aforesaid controversy as at one hand, it is submitted that the petitioner was arrested and on the other hand that even the competent court of Karnataka has accepted the final form exonerating the petitioner submitted by the Karnataka police and in view of the claim of the petitioner that there is no specific allegation in the FIR against the petitioner rather there is vague allegation of conspiracy and the further fact that the co-accused persons against whom there are specific allegations have already been granted anticipatory bail, this Court would be inclined to dispose of the matter directing the petitioner to surrender within a period of eight weeks from the date of receipt/production of a copy of this order before the Chief Judicial Magistrate, Patna in connection with Budha Colony P.S. Case No.287 of 2013 as this Court does not see any reason for the learned court below not to give the privilege of bail to the

petitioner when other co-accused persons have already been granted privilege of anticipatory bail as noticed above.

If the petitioner surrenders within a period of eight weeks and seeks regular bail, let a decision be taken on the date of surrender itself.

With the aforesaid observation and direction, this application stands disposed of.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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