

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5061 of 2016

Arising Out of PS.Case No. -540 Year- 2015 Thana -LAHERIASARAI District- DARBHANGA

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1. Sagar Kumar Rai @ Sagar Kumar Roy Son of Late Hem Kant Roy
Resident of Village - Pauri, P.S. - Bahera, District - Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma

For the Opposite Party/s : Mr. Umesh Lal Verma (App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 29-04-2016

1. Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

2. The petitioner is apprehending his arrest in connection with Laheriasarai P.S. Case No. 540 of 2015 registered for the offences punishable under Sections 406, 409, 467, 468 and 471 of the Indian Penal Code.

3. Case diary was called for which has since been received.

The allegation against the petitioner is that he, as Nazir, posted in the District Welfare Office, Darbhanga, in connivance with Saroj Kumar Mishra and Vinay Kumar, fraudulently withdrew the money of the Department from Account No. 12500 of the Indian Overseas Bank, Darbhanga



through RTGS and transferred the money in the account of the aforesaid persons, thus misappropriating the same. It is further, alleged that the Indian Overseas Bank has stated that certain cheques were taken by the petitioner bearing cheque Nos. 350601 to 350700 (100 leafs) on 18.09.2015. It is further, alleged that other cheque leafs were also taken by the petitioner on 18.10.2014 bearing cheque Nos. 353701 to 353800.

Learned counsel for the petitioner submits that so far as the cheques, allegedly, taken by him after his date of transfer is concerned, those cheques have not yet been withdrawn till date and therefore, the petitioner cannot face prosecution on that score. The cheques bearing Nos. 353701 to 353800 are the cheques which have formed the substance of allegation against the petitioner. However, these cheques have not been signed by the petitioner rather they have been signed by the District Welfare Officer, who has lodged the present F.I.R., alleging misappropriation by the petitioner and stating that these were not his signatures and have been forged by the petitioner.

Learned counsel appearing on behalf of the State, after referring to several paragraphs of the case diary, submits that the petitioner was custodian of these cheques and, therefore, a fair inference can be drawn that whatever forgery was

committed by issuance of cheques, in the name of the District Welfare Officer, as alleged, the petitioner being custodian of those cheques would be squarely responsible for the same.

Learned counsel for the petitioner countering the aforementioned submission made on behalf of the State submits that save and except the bald allegation, there is no other material to show that the petitioner had, in fact, participated in the alleged forgery and till the time, the said forgery is proved, the petitioner cannot be subjected to prosecution and at best, he can cooperate with the investigation. It is further, submitted that in view of the fact that the petitioner has already been transferred from the office of the District Welfare Officer, Darbhanga and is presently posted in the Office of Deputy Director, Welfare, Darbhanga, there is no scope of the petitioner either absconding or tampering with any evidence or interfering in the investigation.

Considering the facts and circumstances of the case and that the petitioner is a Government servant and has been attending office and furthermore, he undertakes to cooperate with the investigation and make himself available as and when required, let the petitioner, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail

bonds of Rs. 10,000/- (ten thousand) with two sureties of the each amount to the satisfaction of the learned Chief Judicial Magistrate, Darbhanga, District-Darbhanga in connection with Laheriasarai P.S. Case No. 540 of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

It is made clear that one of the bailors of the petitioner shall be a close family relative, which means either mother, spouse or brother.

It is also made clear that if the petitioner shall not cooperate with the investigation, it would be open to the investigating agencies to move this Court for cancellation of his bail.

(Anjana Mishra, J)

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