

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9745 of 2016

Arising Out of PS.Case No. -23 Year- 2012 Thana -ECONOMIC OFFENCES, BIHAR District-
PATNA

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1. Rajesh Kumar, S/o Late Binay Bhushan Sinha, Resident of Budha Gola Road, Mahabir Asthan, P.S. and Dist- Muzaffarpur, at present residing at East Abhiyanta Nagar, Ramnagari, Ashiana, P.S.- Rajeev Nagar, District and Town- Patna.

..... Petitioner/s

Versus

1. The State of Bihar Through Economic Offence Unit, Bihar.

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Ajatshatru

For the Opposite Party: Mr. Vishwanath Pd. Sinha (Sr. Adv. for EOU)
Mrs. Soni Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 21-06-2016 Heard Sri Jitendra Singh, the learned senior counsel

for the petitioner and Sri Vishwanath Prasad Sinha, the learned

senior counsel for the E.O.U.

The petitioner apprehends his arrest in a case under
Sections 420, 468, 472 and 120(B) of the Indian Penal Code.

The E.O.U. registered a case on the basis of
information that a gang of interpolators in the examination of
Junior Engineers as well as Auditors had assembled and they
made interpolation in the O.M.R. sheets and on the basis of which
a raid was conducted and eight persons were apprehended from
the premises of Bihar Staff Selection Commission office and on

the basis of their disclosure nine persons were apprehended from flat No. 404-A of Ram Raj Apartment. Ranjit Kumar Rajak is said to be the owner of the flat from there different O.M.R. sheets and other articles were recovered.

Sri Jitendra Singh, learned senior counsel for the petitioner, submits that petitioner is Dy Secretary of Bihar Staff Selection Commission. The petitioner is not named in the FIR and even during the course of investigation the petitioner was twice summoned by the Investigating Officer on 07.03.2013 and 23.08.2013 respectively for interrogation. The petitioner co-operated with the Investigating Officer but he was not taken into custody. It is further submitted that for the first time the name of petitioner figured in paragraph 109 and thereafter 686 of the case diary that too on the basis of dereliction of duty as the petitioner was said to be Incharge of strong room but he did not inform the authority concerned of interpolation or tampering with the O.M.R. sheets under seal and lock of the petitioner. It is further submitted that charge sheet has already been submitted and the petitioner is not at all required for his custodial interrogation. The petitioner is still in service and is posted as O .S. D. in the Mines Department, Government of Bihar and many of the accused persons including Manoj Kumar, Ranjit Kumar Rajak, from whose

flat O.M.R. sheets and different articles were recovered, Prem Chandra @ Prem Chand, Ram Pravesh Kumar and others, who are said to be members of organized gang, have already been granted anticipatory or regular bail by this court and the case of petitioner stands on better footing.

On the other hand, Sri Vishwanath Prasad Sinha, the learned senior counsel for the E.O.U., has submitted that case of petitioner and one Aquil Zubair Hashmi, who was joint secretary in Bihar Staff Selection Commission, is similar as he was also made Incharge of the strong room along with petitioner and handed over the keys. Signature of the petitioner and Aquil Zubair Hashmi were put on the seal and lock of the strong room and prayer for anticipatory bail of Aquil Zubair Hashmi has already been rejected by this court as well as by the Hon'ble Supreme Court vide order passed in Special Leave to Appeal (Crl.) No. 5114 of 2015 on 10.06.2015 and, therefore, the petitioner does not deserve anticipatory bail.

Having considered the fact that, of course, many members of the gang were not arrested on the spot who have already been granted anticipatory bail or regular bail but the case of the petitioner is similar to that of Aquil Zubair Hashmi, Joint Secretary of Bihar Staff Selection Commission, as the petitioner

was also Incharge of the strong room and he was a responsible officer to keep the O.M.R. sheets intact but the petitioner did not inform the authority concerned even after interpolation in the O.M.R. sheets under seal and lock, I am not inclined to enlarge the petitioner on anticipatory bail. Accordingly, the same is rejected.

If the petitioner surrenders in the court below, i.e., S.D.J.M., Patna in Economic Offence P.S. case No. 23/2012, the learned court below shall consider the prayer for regular bail of the petitioner on its own merit without being prejudiced from the order of this court and dispose of the bail petition, preferably, on the same date.

(Prabhat Kumar Jha, J)

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