

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31740 of 2016

Arising Out of PS. Case No.-27 Year-2015 Thana- BARAUNI District- Begusarai

Chandan Paswan

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

Criminal Miscellaneous No. 31736 of 2016

Arising Out of PS. Case No.-27 Year-2015 Thana- BARAUNI District- Begusarai

Chandan Paswan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 31740 of 2016)

For the Petitioner/s : Mr. Niraj Kumar, Adv.
Mr. Krishna Deo Mishra, Adv.

For the Opposite Party/s :

For Bihar Bar Council : Mr. Shantanu Kumar, Adv.

(In Criminal Miscellaneous No. 31736 of 2016)

For the Petitioner/s :

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

16 24-01-2018 Criminal Miscellaneous No. 31740 of 2016 was preferred with a prayer for bail on behalf of petitioner Chandan Paswan, son of Genhari Paswan in connection with NDPS Case No.1 of 2015, arising out of Barauni (Zero Mile) P.S. Case No. 27 of 2015. It appears that on behalf of the same petitioner in the same case another application with prayer for bail being



Criminal Miscellaneous No. 31736 of 2016 was also preferred. Both the applications were listed before a Bench of this Court. Since none appeared on behalf of the petitioner, hence, criminal Miscellaneous No. 31736 of 2016 was dismissed for non-prosecution by a co-ordinate Bench of this Court vide order dated 03.08.2016. It appears that in the Criminal Miscellaneous No. 31740 of 2016, the Vakalatanama has been accepted and signed by Niraj Kumar, Advocate having AOR No. 00615 and Krishna Deo Mishra, Advocate having AOR No. 3019, whereas, in the Criminal Miscellaneous No. 31736 of 2016, Vakalatnama has been accepted and signed by an advocate, namely, Awadhesh Kumar Yadav, having AOR No. 07089.

Finding that the petitioner, Chandan Kumar was the driver of the Bolero vehicle bearing registration no. BR-01 PE 6906, from which 1 quintal and 5-10 kgs. of ganja was recovered, the prayer for bail of the petitioner was rejected vide order dated 22.09.2016, passed in Criminal Miscellaneous No. 31740 of 2016. But in view of the fact that aforementioned two applications with prayer for bail were preferred on behalf of the same petitioner in connection with same case, this Court vide order dated 22.09.2016 directed the Registrar Vigilance to conduct an enquiry and submit a report.



In pursuance to the same, Registrar Vigilance has submitted the report in a sealed cover. The Court Master unsealed the envelop with permission of the Court. The report of Registrar Vigilance reflects that statement of all the three advocates, who are appearing in both the applications as well as the statement of the same deponent Genhari Paswan, who swore both the applications preferred by the petitioner, has been recorded.

The deponent, who is the father of the petitioner Chandan Paswan, has stated in his statement that initially the file was entrusted to Awadhesh Kumar Yadav, Advocate for filing application for bail before this Court. But since he failed to file the same, hence, he directed him subsequently, not to file the same. Thereafter, the deponent entrusted the file to Krishna Deo Mishra and Niraj Kumar, Advocates to file the application before this Court on behalf of petitioner Chandan Paswan.

Awadhesh Kumar Yadav, Advocate has explained that initially he was entrusted to file the bail application on behalf of Chandan Paswan, but subsequently, since he was instructed not to prosecute the application, hence, he did not appear before this Court. As a result, the same was dismissed for non-prosecution. Thereafter, the said Awadhesh Kumar Yadav did not appear



before the Registrar Vigilance during inquiry.

Statements of Advocates Niraj Kumar and Krishna Deo Mishra, have also been recorded, who suggested that they had no knowledge of initial filing of Criminal Miscellaneous No. 31736 of 2016 with prayer for bail.

However, both the counsels appeared before the co-ordinate Bench, which vide order dated 03.08.2016, dismissed Criminal Miscellaneous No. 31736 of 2016, for non-prosecution and directed the Criminal Miscellaneous No. 31740 of 2016 to be listed under the appropriate heading.

Since Awadhesh Kumar Yadav did not appear before this Court, the Secretary, Bihar State Bar Council vide order dated 17.05.2017 was directed to submit a report and to initiate a proceeding for suspension and cancellation of the enrollment of the said advocate namely Awadhesh Kumar Yadav.

An affidavit dated 24.01.2018 has been filed on behalf of the Secretary, Bihar State Bar Council, stating therein that vide D.C. Enquiry No.16 of 2017, the disciplinary committee has suspended the licence of Advocate Awadhesh Kumar Yadav for one year. The operative portion of the order aforesaid reads as under :-

“From the above we find that the respondent has committed professional as well



as other misconduct in this matter and liable to be punished under Section 35 of the Advocates Act, 1961 as such, we suspend the licence of the respondent from practicing as an Advocate for a period of one year from the date of this order and further direct the office of Bar Council that if the respondent will not appear personally after expiry of one year he has to explain under what circumstances he has violated all the moral and ethical code provided under the Advocate Act.”

It is submitted by learned Counsel for the Bihar State Bar Council that the above order has been circulated to all the Bar Associations of the country.

A show cause on behalf of Niraj Kumar and Krishna Deo Mishra, Advocates is on record.

Perused the show cause.

From the enquiry report, it appears that the two applications were filed on behalf of petitioner Chandan Paswan due to misconduct of Advocate Awadhesh Kumar Yadav.

In the circumstances, the show cause on behalf of Niraj Kumar and Krishna Deo Mishra, Advocates is accepted. The present application is disposed of.

Let the report of the Registrar Vigilance be kept under sealed cover.



Let the vigilance file be returned to the Registrar Vigilance.

(Dinesh Kumar Singh, J)

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