

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37996 of 2015

Arising Out of PS.Case No. -34 Year- 2015 Thana -C.B.I CASE District- MUZAFFARPUR

Amrendra Kumar Dwivedi S/o Vedyyas Dwivedi, resident of village-
Rajokhar, Nawada, District- Gopalganj. Principal, Pandit Din Dayal
Upadhayay Inter College, Khajooria, Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar, through Vigilance Investigation Bureau, Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.C. Verma, Sr. Advocate
Mr. (Dr.) Bipin Chandra

For the Vigilance : Mr. Ramakant Sharma, Sr. Advocate
Mr. Santosh Kr. Pandey

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

11 19-01-2016 Heard learned Senior Counsel for the petitioner and learned
counsel appearing on behalf of the Vigilance.

The petitioner being the Principal of Pandit Din Dayal
Upadhayay Inter College, Khajooria, Gopalganj apprehends his
arrest in connection with a case registered for the offence
punishable under Sections 409/420/467/471/477A/120B of the
Indian Penal Code and Section 13(2) read with Section 13(1)(d) of
the Prevention of Corruption Act.

The present application has been filed seeking anticipatory
bail in a case in which the petitioner as a Principal had released
money in favour of the respective teachers as well as non-teaching
staffs of the College.

Learned Senior Counsel appearing on behalf of the



petitioner submits that the aforementioned disbursement to the concerned recipients were made by the Principal at the behest and direction of the Managing Committee of the College which was arrived at on 23.02.2011. He submits that earlier these payments were being made by him only on sanctioned posts but the Managing Committee after discussing the matter at its meeting came to the unanimous decisions that persons who had been working since long in the College uptill 26.03.2008 be paid the amounts which had been sanctioned from the Government to the College. Accordingly, the petitioner after taking an undertaking from the respective recipients that they would refund any amount if it was so found that they were not eligible to receive the same, made the payments to each of the recipients whose names have been indicated by the Managing Committee in its meeting dated 23.02.2011. He further submits that the present prosecution came to be lodged only after one Mrityunjay Upadhyay who was previously a teacher at the said College and had subsequently left the College to join Life Insurance Corporation of India as an Agent, made certain complaint against the Principal and other members of the Managing Committee of the College including the Secretary and the Chairman.

Learned counsel appearing on behalf of the Vigilance



submits that the aforementioned disbursement of money which was received by the College from the Government was done in violation of the Rules and the letter No. 46 dated 27.01.2011, in the said letter it had been specifically averred that money should be paid to the concerned recipients who had functioned on sanctioned posts and not otherwise. It is this letter which has been violated and, therefore, the petitioner is guilty of having misappropriated the amount entrusted to him making him liable for criminal prosecution.

Countering the said argument, learned Senior Counsel for the petitioner submits that the petitioner had no knowledge of the said letter and in the meeting dated 23.02.2011, the petitioner has recorded that he was making payment only in accordance with earlier direction and not beyond that but the Managing Committee after considering the said, directed the petitioner to make payments which resulted in the present disbursement of money.

Be that as it may, whether or not the petitioner has received the aforementioned direction from the Government which is stated to be the main cause of the action resulting in the lodging of the present prosecution.

Prima facie it appears that the petitioner had acted in accordance with the decision of the Managing Committee and,

therefore, unless and until, it is established that the petitioner was having specific knowledge of the letter no mens rea can be attached to this action.

Considering the aforementioned facts and circumstances and also that the petitioner is a reasonable person and undertakes to co-operate in all investigation and will present himself before the Court below as and when required, let the petitioner Amrendra Kumar Dwivedi 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 Special Judge Vigilance (North Bihar), Muzaffarpur in connection with special case No. 14 of 2015 arising out of Vigilance P.S. Case No. 34 of 2015 subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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