IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19362 of 2016

Arising Out of PS.Case No. -6 Year- 2014 Thana -C.B.I CASE District- PATNA

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1. Vijay Nath Sah S/o Late Raghunath Sah, resident of Diwan Mohalla, P.O. Jhauganj, P.S.- Khajekala, District- Patna at present posted on the post of Inspector of Income Tax,(TDS) Circle, Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Central Bureau of Investigation, Special Crime Branch, Patna, Dr. S. K. Singh Path, Bailey Road, Patna

.... Opposite Party/s

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with

Criminal Miscellaneous No.21467 of 2016

Arising Out of PS.Case No. -6 Year- 2014 Thana -C.B.I CASE District- PATNA

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1. Uttam Kumar s/o Late Sahdeo Das resident of Mohalla - Mandroza, P.S. - Kotwali, District - Bhagalpur, at present residing at Qr. No. 114/3, Central Revenue Colony, Ashiyana Road, P.S. Shastrinagar, Patna - 25, at present posted on the post of Income Tax Officer, IAP Unit, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Cental Bureau of Investigation, Special Crime Branch, Patna, Dr. S.K Singh Path, Bailey Road, Patna.

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.19362 of 2016)
For the Petitioner/s : Mr. Pradip Kumar, Adv.
For the Opposite Party/s : Mr. Bipin Kumar Sinha(Sc,Cbi)
(In Cr.Misc. No.21467 of 2016)
For the Petitioner/s : Mr. Pradip Kumar, Adv.
For the Opposite Party/s : Mr. Bipin Kumar Sinha(Sc,Cbi)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

11 03-08-2016 Heard both sides.

The petitioner Vijay Nath Sah of Cr. Misc. 19362/2016 and the petitioner Uttam Kumar of Cr. Misc. 21467/2016 apprehend their arrest in C.B.I Patna Regular Case No. RC092201450006, registered for the offences punishable under Sections 120B, 420, 467, 468 and 471 of the Indian Penal Code.

One Maulesh Paswan addressed a letter to the Director C.B.I, New Delhi for taking action against the petitioners Vijay Nath Sah and Uttam Kumar and Ajay Kumar making allegation that all the three persons obtained forged certificate of Scheduled Caste and got their jobs. Although they belong to caste of Backward Community.

Learned counsel for the petitioners submitted that the petitioner Vijay Nath Sah belongs to Turi Caste which comes in the category of Scheduled Caste. The Caste Certificate was duly issued by the Sub-divisional Welfare Officer, Patna City after proper verification. It is further submitted that it has not been found that the Caste Certificate issued by the competent authority is forged one. In the case of Kumari Madhuri Patil the Hon’ble Supreme Court has given direction to the State Government to create Screening Committee to look into the grievances of such persons who obtained job in different governments including Central Government on the basis of fake Caste Certificate of Scheduled Caste and others. In pursuance of the order aforesaid Screening Committee was constituted in each and every states.

C.B.I has not approached or made any complaint to the Screening Committee about the petitioner for their obtaining false and forged Caste Certificates. The Screening Committee has also Investigating Wing which is empowered to make investigation about the genuineness of the certificate and the caste of such persons against whom any complaint is received. It is further submitted that in the case of Abhishek Chandra @ Sachin Besarya in which the C.B.I. made investigation with regard to the caste of the petitioner and submitted charge-sheet. The Gauhati High Court has quashed F.I.R. on the ground that no investigation was made by the Screening Committee of the State and there was no allegation that the petitioner in that case forged the certificate in that event any investigation by the C.B.I. or any other agency is not permissible. However, the High Court of Gauhati in para 92 of the aforesaid judgement has held that the petitioner in that case was not the party and he did not obtain the Caste Certificate.

It is held that in absence of any cogent accusation indicating that the petitioner had at any stage, come to know or had any reason to belief that the Caste Certificate which had been obtained by his father was a false one. The petitioner prosecution under Section 420 is impermissible. If the C.B.I had any suspicion about the genuineness of the Caste Certificate the C.B.I. should have approached the Screening Committee duly constituted in the light of Kumari Madhuri Patil's case. It is submitted that the petitioner has served 20 years and he has been promoted to the Income Tax Officer, so he may be granted privilege of anticipatory bail.

On the other hand, Mr. Bipin Kumar Sinha learned counsel for the C.B.I. has submitted that the fact of the present case is quite different from the case of Sachin Besarya. In that case the petitioner did not get the Caste Certificate and he was not party at any point or at the time of issuance of Caste Certificate, but in the present case the investigating officer has found that forgery has been committed in getting the Caste Certificate of Turi. The petitioner Vijay Nath Sah belongs to Turha Caste. He got admission in Class six in which his caste is mentioned as Turha. The petitioner Vijay Nath Sah was admitted in Guru Govind Singh College of Patna City and he himself filled up admission form in which he stated that he belongs to Turha Caste. The Sub-divisional Welfare Officer issued Caste Certificate of Vijay Nath Sah on 12.04.1978 in which it shows that the petitioner belongs to Turha Caste. The petitioner admitted in Commerce College, Patna and he filled up admission form in which he also mentioned his caste as Turha. At the time of filling up of the form for appearing in the examination of Staff Selection Commission, the petitioner filled up his caste as Turi and accordingly he obtained the Caste Certificate of Turi on the basis of false information given by the petitioner. It is further submitted that the petitioner was called upon to explain and also give the name of his in-laws and relatives, so that the entire investigation could be done.

Similarly, in the case of Uttam Kumar learned counsel for the petitioner submitted that the petitioner belongs to Pan Community and Tanti, Tatwa and Pan are sub-caste of Chaupal which has been placed in the category of Scheduled Caste on the basis of which he obtained the Caste Certificate of Scheduled Caste and got the job of Income Tax Inspector. He did not commit any forgery.

Learned counsel for the C.B.I has submitted that the investigation reveals that the petitioner belongs to Tatwa Caste which falls within the category of Backward Community. The petitioner mentioned in the school and college his caste as Kayastha and did not get any benefit of Scheduled Caste. The investigation further reveals that all the relatives of the petitioners are of Tatwa Caste and they disclosed that they belong to Backward Community. Tatwa falls in the category of Scheduled

Caste, but the petitioner on false representation of facts obtained certificate of Pan Caste. It appears from the records that after receiving the complaint from Maulesh Paswan the C.B.I. made investigation after registering the case and the C.B.I. found that petitioner Vijay Nath Sah belongs to Turha Caste. On his behalf while he was studying in Class six in the year 1978 a caste certificate was issued by the Sub-divisional Welfare Officer, Patna City showing him that he belongs to Turha Caste. Vijay Nath Sah after his matriculation filled up admission forms for admission in the Guru Govind Singh College Patna City and in his own handwriting disclosed that he belongs to Turha Caste. Similarly, filled up admission form of Graduation in College of Commerce and also filled up his Caste as Turha. He was knowing this fact that he belongs to Turha Caste, but he applied for Caste Certificate stating that he belongs to Turi Caste. There appears that it was the petitioner who conceals the material fact from the authority concerned in getting the false caste certificate. Similarly, Uttam Kumar also disclosed his caste Tatma and Kayastha during the period of his studies and he also knew this fact that he does not belong to Tatwa or Pan community, but he obtained Caste Certificate of Pan which belongs to Scheduled Caste on false representation of facts before the authority. On the face it appears that the petitioners were part of the conspiracy in getting the false certificate of caste.

Considering the facts aforesaid, I am not inclined to enlarge the petitioners above-named on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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