

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44303 of 2016

Arising Out of PS.Case No. -367 Year- 2016 Thana -KOTWALI District- PATNA

1. Harihar Nath Jha, son of Late Brajbanshi Jha, resident of Village-
Mahmadi, P.S.- Patahi, District- East Champaran at Motihari, presently
residing at Flat No.- 402, Dev Kunj Apartment, Laxmi Narayan Path,
North S.K. Puri, P.S.- S.K. Puri, Town & District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

WITH
Criminal Miscellaneous No.48384 of 2016

Arising Out of PS.Case No. -367 Year- 2016 Thana -KOTWALI District- PATNA

1. Lalkeshwar Prasad Singh Son of late Nanhak Singh Resident of
Mohallah- Sardar Patel Nagar, Sandalpur Road, P.S Bahadurpur,
District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

WITH
Criminal Miscellaneous No.6673 of 2017

Arising Out of PS.Case No. -367 Year- 2016 Thana -KOTWALI District- PATNA

1. Vikas Kumar, S/o Late Ram Shubhag Singh, R/o 1/34, New Patliputra
Colony, P.S. Patliputra, Distt. - Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :
(In Cr.Misc. No.44303 of 2016)
For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Pranav Kumar, Advocate
For the Opposite Party/s : Mr. Ajay Mishra, APP
(In Cr.Misc. No.48384 of 2016)
For the Petitioner/s : Mr. P.K. Sahi, Sr. Advocate
Mr. Sudha Ambastha, Advocate



For the Opposite Party/s : Mr.

(In Cr.Misc. No.6673 of 2017)

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate

For the Opposite Party/s : Mr. Ram Priya Saran Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

18 07-07-2017 Heard learned counsel for the petitioners,
learned counsel for the informant and learned Additional Public
Prosecutor for the State.

Petitioners are languishing in custody for
offences punishable under Section 418/420/409 /467 /468 /
120B/34 of the Indian Penal Code.

According to F.I.R., the Bihar School Examination
Board invited tender for supply of answer sheets to conduct
Secondary and Intermediate Examination, 2016. The informant
also put his quotation.

Allegation is that his quotation was accepted vide
communication through letter No.6471/15 dated 01.12.2015,
and in pursuance of that work order was signed by Harihar Nath
Jha, Secretary, on behalf of Bihar School Examination Board.

For completion of entire exercise petitioner Vikas
Kumar, who was Storekeeper in the Bihar School Examination
Board was authorized to do the work. Petitioner Lalkeshwar
Prasad Singh, who was Chairman of the Bihar School
Examination Board, was indirectly involved in the matter. After



agreement the informant supplied answer sheets to the different places at the decided warehouses. However, payment of the bill amount of about Rs.8,56,00,234/- was not made.

Submission of the petitioners is that in fact the tender of the informant was rejected by the competent authority as lowest tender of K.C. Printers, Mathura (UP), was accepted vide Annexure-2 and order was placed to the said agency vide Annexure-2A.

Contention of the petitioner is that after rejection of the tender of the informant, the informant in collusion with others managed certain papers said to be signed by the Secretary. Those papers and admitted signature of the Secretary was sent for Forensic Examination by the expert and the opinion of the expert is clear that admitted signature of petitioner, Harihar Nath Jha, does not resemble with the disputed signatures on the work order.

Submission of the petitioner is that everything is concoction just to put wrongful claim against the Bihar School Examination Board. Moreover, no money was transferred. His next contention is that the nature of dispute is of civil nature and the informant has remedy before the competent authority to enforce his contractual right. The petitioner has never received



any amount from the informant.

Learned counsel for the petitioner Lalkeshwar Prasad Singh submits that the petitioner is nowhere in the alleged transaction, which would be evident from the F.I.R. itself.

The submission of learned counsel for the petitioner Vikas Kumar is that Vikas Kumar has not signed anywhere nor he has received any written transaction or issued any written instruction for supply of the answer sheets.

The whole allegation is based on oral evidence. The investigation is already complete. The petitioners are in custody for more than ten months and they are ready to fully cooperate with the trial of the case.

Learned counsel for the State as well as the informant opposed the prayer on the ground that there are witnesses in paragraphs 40 too 66 of the case diary, who have supported that at different places copies were supplied by the informant at the dictate of petitioner Vikas Kumar. Somewhere Vikas Kumar was himself present whereas at some other places he instructed on telephone in presence of that witness. Therefore, he was directly indulged in cheating the informant. There is evidence that everything was done by Vikas Kumar



allegedly at the instance of other petitioners, namely, Lalkeshwar Prasad Singh and Harihar Nath Jha, who are already accused in topper scam case and are in incarceration as yet. One more evidence against Vikas Kumar is that the informant had deposited Rs. 4,00,000/- in the bank account of Vikash Kumar.

Explanation of the informant is that money was deposited with Vikas Kumar to hire vehicle for carrying the copies to different places in the State of Bihar as the informant is resident of Gujrat.

So far this case is concerned; there is no direct evidence against petitioner Lalkeshwar Prasad Singh. He is already in custody for last ten months. Hence, in my view, he deserves to be released on bail. Hence, let petitioner, Lalkeshwar Prasad Singh, be enlarged on bail on furnishing bail bond of Rs.20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna/Successor Court, in connection with Kotwali P.S. Case No.367 of 2016, with condition that petitioner shall fully cooperate with the investigation and trial of the case, failing which the Court-below shall be at liberty to take steps for cancellation of the bail-bonds of the petitioner in this case.



Since signature of petitioner Harihar Nath Jha has not been found genuine on the so called work order paper nor the informant claims that Harihar Nath Jha had signed on the said work order for supply of copy in his presence, nor there is any direct allegation against petitioner Harihar Nath Jha, as well as considering the fact that he is already in custody for more than ten months, there is no material to substantiate that he is going to tamper with the evidence, let petitioner, Harihar Nath Jha, be enlarged on bail, if he not wanted in any other case, on furnishing bail bond of Rs.20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna/Successor Court, in connection with Kotwali P.S. Case No.367 of 2016, with condition that petitioner shall fully cooperate with the investigation and trial of the case, failing which the Court-below shall be at liberty to take steps for cancellation of the bail-bonds of the petitioner in this case.

So far petitioner Vikas Kumar is concerned there is direct allegation that he was directly involved in putting the work order with the informant and in discussion relating to transaction with the informant as well as he was involved in receiving the copies said to be supplied by the informant.



Hence, I am not inclined to enlarge the petitioner on bail for the present. His prayer for bail is refused. The petitioner may review his prayer for bail if no progress in trial takes place within six months.

Mkr./-

(Birendra Kumar, J)

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