

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31792 of 2017

Arising Out of PS.Case No. -750 Year- 2016 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

=====

1. Smt. Bina Jha @ Vina Jha, Wife of Sri Arun Kumar Jha, Resident of
Village- Jhakhra, P.S.- Sarairanjan, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Suresh Rai, Son of Late Baldeo Rai, Resident of Village- Waini, P.S.-
Tajpur, (Waini O.P.), District- Samastipur.

... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate.

For the Opposite Party/s : Mr. Sri S.M. Rahman, APP.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD

ORAL ORDER

2 13-07-2017 Heard learned Senior counsel for the petitioner and

learned APP for the State.

The petitioner apprehends her arrest in connection
with Complaint case no. 750 of 2016 in which learned Judicial
Magistrate 1st Class has taken cognizance of the offences alleged
under Sections 218, 466, 468, 467, 471, 474, 406 and 409/120B of
the Indian Penal Code.

Learned Senior counsel for the petitioner has placed
the statements made in the complaint petition and has submitted
that the complainant who has retired from the post of principal of
the school in question had earlier also attempted to tarnish the
image of the petitioner by filing a writ application in this court
being CWJC No. 7412 of 1989 saying that this petitioner is not the
wife of Arun Kumar Jha rather wife of one Ashwini Kumar.



In the said writ application, stand was taken on behalf of the State that she is the wife of Sri Arun Kumar Jha. Learned Senior Counsel for the petitioner referring to the allegations made in the complaint petition submits that the petitioner in this case was appointed in the year 1989 and has already retired on 31.5.2016. According to the complaint petition, whole allegation is that the petitioner had submitted forged certificate and had wrongly withdrawn salary in collusion with the official of the Education Department even though there was an order to stop her salary.

Learned Senior Counsel for the petitioner further submits that a second service book was created in respect of the petitioner as she had earlier lost her certificate and therefore, she was unable to produce the same. Submission is that in any view of the matter, the service of the petitioner was confirmed only after verification of the certificates and her salary were paid in accordance with law. There is no Departmental Proceeding pending against her and at this stage after her retirement, the present complaint case has been filed by the erstwhile Principal with a malafide intention to harass the petitioner. In the complaint case, cognizance of the offences under Sections 218, 466, 468, 467, 471, 474, 406, 409/120(B) of the Indian Penal Code has been taken and the petitioner had been summoned by the learned Magistrate, later on warrant has also been issued. The learned



Senior Counsel submits that in view of the fact that these sections are non-bailable, there is an apprehension that on her appearance before the learned Magistrate, she may be taken in custody, therefore, in the facts and circumstances of the case, anticipatory bail may be granted to the petitioner.

Learned APP opposes the prayer for bail and submitted that the petitioner is unable to produce her certificates which has given rise to the present case and a prima facie case has been made out against her.

Considering the nature of allegations and the fact that the petitioner was appointed in the year 1987 and has retired on 31.5.2016, a complaint case has been brought at this stage by the ex-Principal of the school in question, this court is of the opinion that, let the petitioner surrender before the learned Magistrate and pray for regular bail. Since the petitioner is a lady and has retired in 2016, Learned Magistrate shall consider the application for regular bail on the same day without being prejudiced by the fact that a warrant of arrest as stated above may be issued against the petitioner. The learned Magistrate shall also consider the entire facts as submitted by the petitioner and it is expected that view taken by a co-ordinate Bench of this court in the case of **Salim Ansari @ Md. Salim Ansari and Others Vs. State of Bihar and another vide order dated 14th May, 2015 passed in Cri. Misc. No. 51075 of 2014**, in the matter of grant of regular bail to the



accused in complaint case when he or she appeared on issuance of
summon shall be given effect to even though a warrant has been
issued at subsequent stage. The application stands disposed of.

(Rajeev Ranjan Prasad, J)

siddharth/-

U		T	
---	--	---	--

