

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49680 of 2016

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

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1. Ajay Kumar son of Late Ram Jatan Paswan resident of Kaushal Nagar,
House No: 172, Polo Road, P.S Hawaiiadda, Town + District-Patna

.... Petitioner/s

Versus

1. Central Bureau of Investigation, S C B, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P.N. Shahi,
Mr. Patanjali Rishi

For the Opposite Party/s : Mr. Sanjay Kumar, S.C. CBI.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

9 02-03-2017 The petitioner is apprehending his arrest in connection with CBI/SCB/Patna R..C. 0922014S0006/14, registered for offences punishable under Sections 120B, 420, 467, 468 and 471 of the Indian Penal Code.

Allegation against the petitioner is that he and other two accused persons, secured appointment in income tax department, by producing forged castes certificates of schedule castes and scheduled tribes, thereafter the matter was enquired and initially charge-sheet was submitted only against other two accused persons in the year 2015 but later on charge-sheet under Section 420 against this petitioner was also submitted in the year 2016.

It has been submitted on behalf of the petitioner that the petitioner was provided employment only after necessary verification of his castes certificate, as he never concealed the fact



that the petitioner was originally not of scheduled caste but later on by virtue of adoption became a scheduled caste and the factum of adoption of the petitioner including the registered deed of adoption executed by his adoptive father was very much in the knowledge of the appointing authority. It has also been submitted that Section 12 of Hindu Adoptions and Maintenance Act, 1956 is very clear that the caste of the adopted child will be governed by the adoptive father only. It has also been submitted that upto now, no proceeding has been initiated against the petitioner and he is still in service though against other two accused persons, same was initiated and after enquiry, they had been dismissed from service.

Learned counsel appearing on behalf of Central Bureau of Investigation opposed the prayer for bail and submitted that the petitioner including other two persons secured the appointment in income tax department by producing forged castes certificates, for which charge-sheet has been filed against all the three accused persons under Section 420 of the Indian Penal Code and the bail application of other two accused persons have already been dismissed by this Court vide order dated 03.08.2016 passed in Criminal Miscellaneous No. 19362 of 2016 and 21467 of 2016 respectively, which has been affirmed by the Hon'ble Apex Court as well. As regards the adoption certificate, the same cannot be



relied upon as the deed of adoption was executed after the age of fifteen years, which is not permissible in the eye of law. It has further been submitted that materials collected during investigation shows that the petitioner all along has been living with his biological parents and only to get the job, he has produced the forged caste certificate of Scheduled Caste community and he has also not married in scheduled caste.

Having heard both sides, considering the fact that the petitioner was appointed in the Income Tax Department in the year 1989 and at the time of appointment, all the verifications including the caste of the petitioner was made and the department was fully aware of the fact that though the petitioner originally belonged to OBC category but by virtue of adoption, he was appointed in the category of Scheduled Castes, therefore, it is not so that the petitioner concealed or suppressed any material fact with regard to his caste and he was appointed after due enquiry. The petitioner is still in service and no departmental proceeding has been initiated against him. So far the cases of other two accused persons are concerned, their cases are different from the petitioner as after enquiry and proceeding, they have been dismissed from service.

In view of the above, petitioner, above named, in the event of his arrest or surrender before the court below within a



period of six weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bond of Rs. 25,000 (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judicial Magistrate, C.B.I.-I, Patna in connection with CBI/SCB/Patna R..C. 0922014S0006/14, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

This is further subject to the condition that:-

- (i) One of the bailors of the petitioner shall be a local person having sufficient immovable property within the jurisdiction of the concerned Court.
- (ii) The petitioner shall cooperate in the trial and make himself available as and when required by the court and on the event of failure on his part two appear before the court on two consecutive dates without showing any genuine reasons, the prosecution will be free to move for cancellation of his bail bonds.

(Vinod Kumar Sinha, J)

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