

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7374 of 2017

Arising Out of PS.Case No. -19 Year- 1999 Thana -VIGILANCE District- PATNA

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1. S.M. Naiyer Imam S/o- Late S.M. Zareef, Resident of Village- Bahera,
Police Station- Bahera, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the State Cabinet Vigilance Investigation
Bureau

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. R. S. Pradhan, Sr. Advocate
Mr. Jainendra Kumar, Advocate

For the Opposite Party/s : Mr. Ramakant Sharma (L.O.,Inc., Vigilance)
Mr. Santosh Kumar Pandey, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

5 27-03-2017 Heard both sides.

The petitioner seeks bail in Special case No. 21-A of 1999, arising out of Vigilance P.S. case No. 19/1999, under Section 420, 465, 471, 477(a), 109, 120B of the Indian Penal Code and under Section 13(2), 13 (1) (d) of the Prevention of Corruption Act and Section 4(2) of Bihar Non Government Physical Training College and Non Government Primary Teachers Education College (Control and Regulation) Ordinance, 1982.

The gist of allegation is that S. M. Zareef College of Education, Darbhanga was established without obtaining approval or otherwise affiliation from the L. N. Mithila University. The



establishment of such college was prohibited under Bihar Non Government Physical Training College and Non Government Primary Teachers Education College (Control and Regulation) Ordinance, 1982. It is alleged that on the basis of forged and fabricated documents affiliation was obtained from the University as well as N.C.T.E. The petitioner is Secretary of the trust, namely, Rauf Muslim Jamia.

The learned senior counsel for the petitioner submits that after preliminary enquiry FIR was registered on 03.08.1999. The petitioner moved for anticipatory bail and the same was rejected by this court vide order dated 21.02.2000 passed in Cr. Misc. No. 32258 of 1999. Non bailable warrant of arrest was issued against the petitioner but, vide order dated 30.08.2000 passed in Cr. W. J. C. No. 435 of 2000, the non bailable warrant of arrest was quashed on the ground that no proper requisition was made by the I.O., as required under Section 73 of the Code of Criminal Procedure. It is further submitted that cognizance was taken on 10.08.2007. The petitioner filed petition for quashing of the order taking cognizance but the same was dismissed on 07.10.2013 thereafter summon was issued and that followed warrant of arrest against the petitioner. It is further submitted that other accused persons have already enlarged on either anticipatory



or regular bail. Dr. S.M. Naqui Imam was granted anticipatory bail vide order dated 15.11.2016 passed in Cr. Misc. No. 20639 of 2016. Anticipatory bail petition of Dr. S.M. Naqui Imam was rejected by the Supreme Court on 17.12.1999 in SLP (Crl.) No. 4063/4064 of 1999 but again Dr. S. M. Naqui Imam moved for anticipatory bail before this court in the year 2016 and he was granted anticipatory bail vide order dated 15.11.2016 passed in Cr. Misc. No. 20639 of 2016 by a coordinate Bench of this court. It is further submitted that petitioner is in jail since 14.01.2017. The petitioner has already remained in jail for about two and half months.

The learned counsel for the Vigilance did not dispute these facts.

From the records, it appears that petitioner was Secretary of the educational trust, which established the training college, without taking prior approval from the concerned authorities and got affiliation on forged and fabricated documents and on such allegations FIR was lodged on 03.08.1999. The prayer for anticipatory bail of the petitioner was rejected by this court vide order dated 21.02.2000 passed in Cr. Misc. No. 32258 of 1999. The petitioner did not surrender in the court and he evaded the appearance. Thereafter, the petitioner again filed anticipatory



bail in this court vide Cr. Misc. No. 142 of 2017 but, during the pendency of Cr. Misc. No. 142 of 2017, the petitioner was arrested and he is in jail since 14.01.2017.

It appears that, of course, the petitioner evaded his appearance for about 15 years but similarly situated accused, Dr. S. M. Naqui Imam, whose prayer for anticipatory bail was rejected by the Supreme Court earlier, has been granted anticipatory bail by a Bench of this court vide order dated 15.11.2016 passed in Cr. Misc. No. 20639 of 2016. The petitioner is in jail for about two and half months.

Considering the facts aforesaid and the nature of allegation made against the petitioner, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance-I, Patna in Special case No. 21-A of 1999, arising out of Vigilance P.S. Case No. 19 of 1999.

(Prabhat Kumar Jha, J)

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