

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25279 of 2017

Arising Out of PS.Case No. -103 Year- 2016 Thana -C.B.I CASE District- MUZAFFARPUR

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Dr. Ashok Kumar Son of Dr. Lakhi Chand Prasad Resident of
Village-Telpa Marwari Colony, P.S.-Town Chapra, District-Saran
.... .. Petitioner/s

Versus

The State of Bihar through Cabinet Vigilance, Bihar at Patna
.... .. Opposite Party/s

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With

Criminal Miscellaneous No.25317 of 2017

Arising Out of PS.Case No. -101 Year- 2016 Thana -VIGILANCE District- PATNA

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Dr. Ashok Kumar Son of Dr. Lakhi Chand Prasad, resident of Village-
Telpa Marwari Colony, P.S.- Town Chapra, District- Saran.
.... .. Petitioner/s

Versus

The State of Bihar through Cabinet Vigilance, Bihar at Patna.
.... .. Opposite Party/s

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With

Criminal Miscellaneous No.25338 of 2017

Arising Out of PS.Case No. -107 Year- 2016 Thana -VIGILANCE District- PATNA

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Dr. Ashok Kumar, Son of Dr. Lakhi Chand Prasad, resident of Village-
Telpa Marwari Colony, P.S.- Town Chapra, District- Saran.
.... .. Petitioner/s

Versus

The State of Bihar through Cabinet Vigilance, Bihar at Patna.
.... .. Opposite Party/s

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Appearance :
In all cases:



For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Binod Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Rabindra Kumar, Asstt. Prosecutor
for Vigilance

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

3 06-09-2017 The allegation in these three vigilance cases are identical in nature and the petitioners in all these cases being the same, these applications for grant of pre-arrest bail have been taken up together and are being disposed of by a common order with consent of the parties.

2. Heard Mr. Y.V. Giri, learned Senior Advocate appearing for the petitioner and Mr. Ravindra Kumar, learned Assistant Public Prosecutor for the Vigilance.

3. These applications for grant of pre-arrest bail arise out of Vigilance P.S. Case Nos. 101 of 2016, 103 of 2016 and 107 of 2016 registered under Sections 420, 467, 468, 471-A, 409 and 120B of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

4. The petitioner was Registrar of Jai Prakash University, Chapra from October, 2007 to October, 2008 and from 9th December, 2015 to 30th April, 2016.

5. From perusal of the FIR the allegations that have been made can be summarized as follows:-



(i) Wrongful use of post in disbursement of payment made to teaching and non-teaching staffs beyond sanctioned strength for which In-charge Principal, Dr. Gajendra Prasad Singh and Principal Sri Rajendra Kishore Gokul and the Secretary of the relevant time of the governing body namely Sri Kedar Nath Pandey and Janardan Prasad Sigriwal is responsible.

(ii) After relieving of Binod Kumar Singh from the post of Secretary governing body the Principal Sri Rajendra Kishore Gokul in connivance with the subsequent constituted governing body has illegally made payment to other 22 teaching and 48 non-teaching staffs whose appointments were not made against sanctioned post. Further no provident fund deduction and income tax deduction was made from the payment for which the Principal Sri Rajendra Gokul and the co-signing authority of the cheque which is the Secretary governing body is responsible for having caused financial loss to the government.

(iii) Bhagwan Bazar P.S. Case No.146 of 2016 instituted against the then Principal Sri Gajendra Prasad Singh in relation to illegality committed by



him.

(iv) Smt. Usha Kumari gave her joining on 20.10.1994 against the sanctioned post of Home Science Department who has been made all payments however, Smt. Seema Singh who gave her joining on 01.04.2006 against sanctioned post of Home Science Department has not been made any payment. Similarly, one Vijay Kumar Singh who was appointed against the unsanctioned post of department of Chemistry on 07.03.1995 however, illegally one Sri Parmanand Singh who was appointed on 02.09.2005 has been shown to be appointed against unsanctioned post. Thus the Principal and the Secretary has misused the power and wrongly gave financial benefit to such persons.

(v) For the period 2005-08, 23 students, for the period 2006-09, 39 students, for the period 2007-10, 182 students, for the period 2008-11, 20 students, for the period 2009-12, 7 students and for the period 2011-14, 31 students were permitted to give examination whose registration was not yet done for which primary responsibility is that of the Registrar.



Thus, the Principal, the petitioner who is the Registrar of J.P. University, Dr. M.G. Mustafa, Professor Vijay Pratap Kumar, Dr. Tapasavi Prasad Sinha, and current Examination Controller Sri Gopal Prasad Arya and Divyansu Kumar, J.P. University Chapra appears to be guilty.

6. It is submitted by the learned Senior Advocate appearing for the petitioner that there is no allegation against the petitioner to have issued any cheque under his signature to any of the colleges except Deoraha Baba College, Garkha, Saran which relates to Vigilance P.S. Case No. 101 of 2016 and, even in that case after coming to know that certain teachers and non-teaching employees were working in the college against posts which were not sanctioned, directed the college not to make disbursement of amount and the amount is still lying in the account of the college. He has submitted that there is no allegation against the petitioner of misappropriation of fund received by the University, which was to be released to respective affiliated colleges. He has also submitted that on the similar allegation, three other cases were also instituted against the petitioner vide Vigilance P.S. Case Nos.102 of 2016, 106 of 2016 and 104 of 2016 and after taking note of the submissions made on behalf of the petitioner, a



co-ordinate Bench of this Court has allowed the prayer for grant of pre-arrest bail to the petitioners in those three cases vide common order dated 11.07.2017 passed in Cr. Misc. Nos. 25732 of 2017, 25768 of 2017 and 25807 of 2017.

7. *Per contra*, learned counsel for the Vigilance has submitted that there is serious allegation of irregularity and fraud against the petitioner. However, he has conceded that on similar allegation, a co-ordinate Bench of this Court has granted pre-arrest bail to the petitioner in three other cases of identical nature.

8. I have heard learned counsel for the parties and perused the order passed in Cr. Misc. No.25732 of 2007, which was heard together with Cr. Misc. No. 25768 of 2017 and Cr. Misc. No. 25807 of 2017.

9. On hearing the parties and examining the records of the case, I find that the allegation in these three cases are more or less identical to that of allegation made in Vigilance P.S. Case Nos.102 of 2016, 106 of 2016 and 104 of 2016 in which the petitioner has already been granted pre-arrest bail.

10. In that view of the matter, for the reasons assigned in the aforesaid order dated 11.07.2017 passed in Cr. Misc. No.25732 of 2007, Cr. Misc. No. 25768 of 2017 and Cr.



Misc. No. 25807 of 2017, in the event of arrest or surrender in the court below within a period of six weeks, the petitioner is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance, North Bihar at Muzaffarpur in connection with Vigilance P.S. Case Nos. 103 of 2016, 101 of 2016 and 107 of 2016 subject to the conditions as laid down under Section 438 of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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