

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39365 of 2018

Arising Out of PS. Case No.-38 Year-2018 Thana- KOCHADHAMAN District- Kishanganj

MD. BADIUZZAMA @ MD. BADUZZAMAN, Son of Late Tamizuddin,
Resident of Mariya Dalwabasti, Police Station- Paharkatta, District-
Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Adv.
Mr. Firoz Ahmad, Adv.
For the Opposite Party/s : Mr. Md. Arif

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-07-2018

Heard learned counsels for the parties.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406,409,467,468 and 420 of the IPC.

The prosecution case got initiated with the written report of Incharge Medical Officer, Primary Health Centre, Kochadhaman dated 27.02.2018 submitted to the SHO, Kochadhaman Police Station is to the effect that the petitioner was posted as a clerk from 21.02.1997 to 17.07.2003 at Primary Health Centre, Kochadhaman. The services of the petitioner were terminated by Memo No. 1251 dated 16.10.2004 issued under the signature of Civil Surgeon-Cum- Chief Medical Officer, Kishanganj as his appointment was found to be forged. Hence, during audit, the



amount of Rupees Three Lacs Two Thousand Two Hundred Fifty Six paid to him as salary has been treated to be the amount being defalcated by him.

It is submitted by learned counsel for the petitioner that the petitioner was appointed as a clerk under valid procedure and the order of the termination of his services was set aside by this Court vide order dated 29.07.2011 passed in L.P.A. No. 1838 of 2010. Against the said order, the State Government has preferred the SLP before the Apex Court. Moreover, for the said termination in 2004, the F.I.R. has been registered in 2018.

Learned APP submits that the FIR suggests that the petitioner got appointment fraudulently, hence all the payments made to him has been treated to be an amount defalcated by him.

Considering the fact that the termination of the petitioner has been set aside by a Division Bench of this Court and the S.L.P. is pending before the Supreme Court, coupled with the fact that the petitioner was terminated in 2004 and the FIR has been registered in 2018, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of the learned A.C.J.M-Ist class, Kishanganj in
connection with Kochadhaman P.S. Case No. 38 of 2018
subject to the conditions laid down in Section 438(2) of the
Cr.P.C.

(Dinesh Kumar Singh, J)

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