IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26845 of 2019

Arising Out of PS. Case No.-765 Year-2018 Thana- BEGUSARAI MUFFASIL District- Begusarai

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Ravindra Kumar Tiwari, S/O- Late Ramesh Chandra Tiwari, Resident of Village Garmiya Tiwari Tola, P.S. Kartaha, Distt.- Vaishali, at present working as Constable in B.M.P.-8 Begusarai P.S. Mufassil, District- Begusarai.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Gyanendra Kumar Shukla
For the Opposite Party/s : Mr. Akshaylal Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 06-11-2019 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with Mufasil P.S. Case No.765 of 2018, for the offence punishable under Sections 409, 420 and 120(B) of the Indian Penal Code.

The allegation against the petitioner is that he being the confidential clerk posted in B.M.P. No.8 misappropriated the amount of Rs.4,72,869.50/- as per the finding of the audit report.

Mr. Ashok Kumar Chaudhary, learned counsel appearing for the petitioner submits that petitioner was working as confidential clerk in the capacity of a Constable and has been implicated in this case on the basis of defective audit report which would be evident from the fact that a suspension order dated 26.11.2018, at Annexure-2, was issued in which the Commanding Officer of B.M.P. No.8, Begusarai has raised suspicion regarding the authenticity of the audit report. Learned counsel further submits that inexperienced audit team was constituted consisting of D.S.P., Head Clerk and Accounts clerks who were not competent to go into the mitigate the audit.

Learned counsel referring to Annexure-4 submits that another Commending Officer of B.M.P. No.8, Begusarai based upon the facts mentioned in letter dated 31.01.2019 has recommended that a fresh audit team may be constituted for the re-audit of the welfare fund of the B.M.P. No.8 for the same period. Learned counsel further referred para 6 of second supplementary affidavit and submits that DIG, Muzaffarpur vide letter No.676 dated 14.06.2019 has directed for conducting audit of the welfare fund of the battalion by the team of Accountant General for the same period. Learned counsel further relied upon the statement of one Mukesh Kumar, the President of the Welfare Committee, B.M.P. No.8 in a departmental proceeding and submits that he did not utter anything against the petitioner during the departmental proceeding

Having regard to the submissions made by the parties and taking into consideration the fact that commanding officer has recommended for getting audit of the welfare fund done for the check period, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, the petitioner, above named, is directed to surrender before the learned Court below within a period of four weeks from today and in the event of surrender by him, he shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

(Anil Kumar Sinha, J)

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