IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29589 of 2019

Arising Out of PS. Case No.-21 Year-2019 Thana- KURTHA District- Jehanabad

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Vivek Kumar Sinha, son of Late Prabhu Kumar Sinha, Resident of Mohalla - Court Area, Near L.I.C. Office, Jehanabad, P.S.- Jehanabad, Distt – Jehanabad.

... ... Petitioner

Versus

The State of Bihar.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Senior Advocate Mr. Sunil Kumar, Advocate Mr. Navin Sharma, Advocate
For the State	:	Smt. Archana Sinha, Sr. Standing Counsel Mr. Alok Kumar, Advocate Mr. Sanjeev Kumar, Jr. Standing Counsel Mr. Umesh Lal Verma, APP
For the Informant	:	Mr. Nishikant, Advocate Mr. Madhumay Madhup, Advocate Mr. Subhesh Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL ORDER

3 18-07-2019 This is an application for grant of anticipatory bail in connection with Kurtha P.S. Case No. 21 of 2019, disclosing offences under Sections 406, 420, 465, 467, 468 & 471 of IPC.

Prosecution story as per the written report filed by the Officer In-charge of S. B.A.N. College, Dharhitta Lari in short is that petitioner was engaged as a Lawyer for submission of income tax return (T.D.S.) of the above College and collection of T.D.S. deduction usually were deposited in the State Bank of India. It is further alleged that on 11.10.2018 after deducting the T.D.S., three cheques were issued in favour of Income Tax

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Officer, Gaya for depositing on-line but it has been informed by the petitioner to cancel the cheque and to issue cheques in his name. Accordingly, the income tax deduction were deposited in the bank account of the petitioner. Further case is that the office has informed that the petitioner has not produced the receipt of 3rd quarterly return and on inquiry, petitioner on one plea or other kept the matter pending. It has also been submitted that on 06.02.2019 there was a Seminar of T.D.S. in which Senior Officials of the Income Tax Department has come, where he has produced the challan given by the petitioner to the Income Tax Officer but on inquiry, he was informed him that those amount has not been deposited in the department and the forged challan has been produced to the College and the amount runs into Rs.2,35,2424,629/-. As such, petitioner got the amount deposited in his personal account and played a fraud with the College.

Submission of the learned counsel for the petitioner is that he is a Tax Consultant and the amount has not been misappropriated and nor forged and fabricated document has been created by the petitioner, rather now the petitioner has deposited the amount. Further, he has admitted that after filing of the case, the amount has been deposited and as such, there is

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no misappropriation or defalcation of any cash. It is a money transaction in which payment has been made though after lodging of the F.I.R. but within the time.

Heard learned A.P.P. as well as learned counsel appearing on behalf of Income Tax Department and the Lawyers for the informant, they have opposed the prayer for anticipatory bail of the petitioner on the ground that even if it is accepted that petitioner has deposited the amount to the Income Tax Department, he has deposited only after lodging of the case and prior to that he has produced the forged challan to the College, which on verification by the Income Tax Officials was found forged, as no such amount was deposited to the Income Tax Department that shows the intention of the petitioner. As such, it is clear case of cheating and an attempt to defalcate and misappropriates, due to which all the staffs of the College has to face consequences of non-payment. It has been submitted that it becomes more relevant as petitioner is a Lawyer and the conduct of the petitioner is also a misconduct under Advocates Act.

Having heard both sides, considering the allegation made above, I do not find it a fit case for grant of privilege of anticipatory bail to the petitioner, rather the petitioner may

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surrender before the learned court below and make prayer for regular bail, which will be considered by the learned court below on its own merit, on the basis of materials available on record, and if possible to be disposed of on the same day.

With the aforesaid, this application is dismissed.

(Vinod Kumar Sinha, J)

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