

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38811 of 2019

Arising Out of PS. Case No.-131 Year-2016 Thana- VIGILANCE District- Patna

DIWAKAR PANDEY Son of Shri Ramu Pandey Resident of Mohalla-Pakri,
P.S.-Nawada, District-Bhojpur (Ara) Petitioner/s

Versus

THE STATE OF BIHAR THROUGH VIGILANCE, PATNA
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Ranjan

For the Opposite Party/s : Mr. Deepak Sahay Jamuar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

5 16-11-2019 Heard learned Counsel for the petitioner and

learned Counsel for the Vigilance.

This application, for grant of anticipatory bail, arises out of Vigilance Police Station Case No. 131 of 2016, disclosing offences under Sections 467/468/469/471/420/120B of the Indian Penal Code and Sections 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988.

The allegation against the petitioner is that the petitioner happened to be the Incharge Headmaster of the Primary School, Salthar, Udwanthnagar, Bhojpur, and in that capacity, a sum of Rs. 18,21,600/- was disbursed in favour of the petitioner's school for the purposes of construction of extra class rooms under Sarva Shiksha Abhiyan. It has further been alleged that out of the said amount of Rs. 18,21,600/-, a sum of Rs. 1,82,270/- was transferred to Maitri Construction Private Limited by the petitioner in order to obtain commission from the



agency, which was selected as the executing agency.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in the present case inasmuch as the then District Programme Officer and the District Education Officer, who were authorized persons to disburse the amount to different schools for the purposes of construction of extra class rooms under the scheme, in question, committed fraud and changed the name of the schools, prepared by the Committee, headed by the District Magistrate, with oblique motive and in order to favour Maitri Construction Private Limited and the petitioner as well as the Headmasters of other schools were directed to attend, a meeting was called by the then District Programme Officer of all the Headmasters of the schools and all the Headmasters were directed by the District Programme Officer to transfer the amount in favour of Maitri Construction Private Limited, and the petitioner, being the Headmaster of the school, acted in terms of the direction issued by the District Programme Officer and in stead of entire amount, the petitioner transferred initial amount only of a sum of Rs. 1,82,270/-. He further submits that without prejudice to his right and contention, the petitioner has refunded the entire amount of Rs. 1,82,270/- in the Government account by various



cheques, which has been explained in paragraph 14 of this application. He further submits that similarly situated co-accused persons, Kaulesh Ray and Arvind Giri, have been granted anticipatory bail by this Court in Criminal Misc. Nos. 21878 and 72801 of 2018.

Learned Counsel appearing on behalf of the Vigilance submits that the amount in question has already been refunded by the petitioner, however, the allegation of transfer of a sum of Rs. 1,82,270/- in favour of Maitri Construction Private Limited is there against the petitioner in the First Information Report.

Having regard to the submissions made on behalf of the parties and taking into consideration the fact that similarly situated co-accused persons have been granted anticipatory bail by this Court and the petitioner has refunded the entire amount received by him, I am inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, allowed.

Let the petitioner, Diwakar Pandey, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount



each to the satisfaction of learned Special Judge, Vigilance0I,
Patna, in connection with Vigilance Police Station Case No. 131
of 2016 (Special Case No. 70 of 2016), subject to the condition
laid down under Section 438 (2) of the Code of Criminal
Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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