

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1332 of 2019

Arising Out of PS. Case No.-4 Year-2011 Thana- BIHIA District- Bhojpur

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Gajendra Singh, Son of Late Khajan Singh, Resident of Lane No. 4, in front of Railway bridge near Vashisth Bhawan, Bhupendrapuri Modi Nagar Gajiyabad, U.P.

... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Department of Home, Government of Bihar, Patna
2. The Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
3. The Area Manager, Food Corporation of India, Firdaush Building, Exhibition Road, Patna Bihar

... .. Respondents

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Appearance :

For the Petitioner : Mr. Ajit Kumar Singh, Advocate
For the Respondents-State: Mr. Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 18-09-2019

Defect pointed out by the registry is ignored.

2. This application under Article 226 of the Constitution of India has been filed by the petitioner for quashing the First Information Report (for short 'FIR') of Behea P.S. Case No.4 of 2011 registered for the offences punishable under Sections 420, 406, 409 and 120B of the Indian Penal Code.

3. Learned counsel appearing for the petitioner submitted that the petitioner is not named in the FIR. In course of investigation, the police tried to apprehend him as his name also transpired as one of the accused. Apprehending arrest, petitioner



moved for grant of pre-arrest bail before the court of session, which was rejected. Thereafter, the petitioner moved for grant of pre-arrest bail before this Court, which has been allowed. He contended that till date the police report has not been submitted and the implication of the petitioner in the case is without any substance.

4. On query, learned counsel for the petitioner admitted that the allegations made in the FIR do attract ingredients of the offences alleged. However, he contended that the allegations made in the FIR would simply involve the named accused Uday Bhushan and not the petitioner.

5. Opposing the application filed by the petitioner, learned counsel for the State submits that the defence taken by the petitioner for quashing the FIR is totally misconceived. He contended that the investigation is always supposed to be confidential in nature. In absence of the police report, the petitioner can not claim that he is aware of the facts collected in course of investigation. On the aforesaid submissions, he submitted that the application deserves to be dismissed.

6. Having heard the parties and perused the materials on record, I find substance in the submission of the learned counsel for the State.



7. To hold investigation into a cognizable offence is the statutory right of the police. The petitioner himself admits that the allegations made in the FIR do attract ingredients of cognizable offence.

8. In that view of the matter, institution of the FIR can not be held to be bad. It is also an admitted fact that the case is still pending investigation. It has rightly been submitted by the learned counsel for the State that at the stage of investigation, a suspect has got no right to have any access to the materials collected in course of investigation.

9. In that view of the matter, submission of the petitioner that his implication is false can not be considered by the court. The stage of consideration of material against the petitioner would arise only after the investigation is completed and a report under Section 173(2) of the Code of Criminal Procedure is submitted before this Court.

10. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2019
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