

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.71458 of 2018

Arising Out of PS. Case No.-43 Year-2017 Thana- KISHUNPUR District- Supaul

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Gopal Krishnan Son of Sri Ram Charan Prasad Resident of Mohalla- Sri Naga Hata, P.S. K. Hat, District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 11-01-2019 Heard Mr. Rama Kant Sharma, the learned senior

counsel for the petitioner and Mr. Aslam Ansari for the

State.

The petitioner seeks bail in anticipation of his

arrest in connection with Kisanpur P. S. Case No. 43 of

2017 dated 02.03.2017 instituted for the offences under

Sections 409 and 420 of the Indian Penal Code.

The F.I.R. has been lodged on the basis of a report

submitted by a three-men-committee with regard to the

financial and other departmental irregularities having been

committed by the petitioner during the period when he was

posted as Block Development Officer in Kisanpur. Amongst



the charges, leading to the lodging of the F.I.R. are faulty handling of the registers dealing with cash entry and the expenses. The allegation primarily centres around the petitioner not having taken prompt action with respect to the mis-match in the income as well as the expenditure of the department which was writ large in the cash register. There are other allegations also which indicate that the petitioner, in collusion with others, had caused financial irregularities in the General Administration Department and had obtained a loan on his own name which was not permissible.

Learned counsel for the petitioner has submitted that without going into the individual allegations raised in the F.I.R., it would be relevant to refer to the enquiry report of the enquiry officer which was submitted in the departmental proceeding which has been initiated against the petitioner. Be it noted that the petitioner is still under suspension and the report submitted by the enquiry officer indicates that the allegation with respect to the financial irregularities are not proved but the allegations of not keeping the registers in proper and up to date manner and taking prompt action has



been partially proved. The report of the enquiry officer has not yet been accepted by the disciplinary authority.

Be that as it may, learned counsel for the petitioner has also drawn the attention of this Court to the fact that the petitioner in his capacity as Block Development Officer had taken measures for removal of encroachment which had irked a Member of the Legislative Assembly.

The other reason for his being harassed by the departmental superiors is that he had protested against his being posted for election duty despite a Circular of the Election Department to the contrary.

These are the two grounds on which the petitioner claims that he has falsely and malafidely been made accused in the subject F.I.R.

The aforesaid grounds were urged by the petitioner in a criminal writ petition before this Court, seeking quashing of the F.I.R. However, a Bench of this Court did not agree to the submissions advanced on behalf of the petitioner but directed the petitioner to approach the investigating agency to lay bare all the facts which could help the investigating



agency in coming to a right conclusion.

Considering the facts that the petitioner has already been put to departmental proceeding and a report which in a way is favourable to the petitioner has been filed, this Court considers that the departmental proceeding would be concluded properly, if the petitioner gets an opportunity to participate in the same.

The Court is cognizant of the fact that the result of a departmental proceeding is based on different norms and set of facts which may not have a bearing on the investigation of a criminal case even though the charges are more or less the same, nonetheless for the reasons stated above, this Court deems it appropriate that the petitioner be afforded protection from arrest.

For the grounds urged on behalf of the petitioner and the same being consistent in all other petitions which were preferred by the petitioner before this Court and other forums, the petitioner, above-named, is directed to be released on bail, in the event of his arrest or surrender before the court below within a period of six weeks from the



date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Supaul in connection with Kisanpur P. S. Case No. 43 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

However, it is made clear that the petitioner shall participate in the investigation and would not withhold any information which is sought from him.

In case the investigating agency comes to the finding that the petitioner is hiding facts from the investigating agency or is not cooperating with the investigation, it would be open for the investigating agency to approach this Court for cancellation of the protection from arrest which has been granted to the petitioner.

(Ashutosh Kumar, J)

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