

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM COURT'S CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18798 of 2020**

Arising Out of PS. Case No.-241 Year-2019 Thana- SOHSARAI District- Nalanda

1. NISHA BHARTI W/o Uday Shankar Madhav Resident of Village - Mandi, P.S.- Chain, Distt.- Nalanda. at Presently residing at Mangla asthan Ramchandrapur at the House of Shrawan Jee Anusevak D.M. office, P.S.- Lateri, Dist.- Nalanda.
2. Uma Shankar @ Uma Shankar Madhav Son of Mahendra Pandit Resident of Village - Mandi, P.S.- Chain, Distt.- Nalanda. at Presently residing at Mangla asthan Ramchandrapur at the House of Shrawan Jee Anusevak D.M. office, P.S.- Lateri, Dist.- Nalanda.
3. Rohit Kumar Son of Late Doman Mahto Resident of Village - Dayamchak, P.S.- Sare , Dist.- Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shashi Shekhar, Adv.
For the Opposite Party/s	:	Mr.Binod Kumar, APP
For the Informant	:	Mr. Lalan Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 14-10-2020 Heard learned counsel for the petitioners, Mr. Lalan Kumar, learned counsel for the informant and Mr. Binod Kumar, learned APP for the State.

The petitioners in the present case are seeking pre-arrest bail in connection with Sohsarai P.S. Case No.241/2019 registered for the offences punishable under Sections 420, 467, 468, 471, 386, 120(B), 323, 504 and 506/34 of the Indian Penal Code.

Out of three petitioners, the petitioner no.1 has



already gone in custody and this fact has been recorded in the previous order of this Court. This application now survives in respect of Uma Shankar @ Uma Shankar Madhav (petitioner no.2) and Rohit Kumar (petitioner no.3).

Learned counsel for the petitioner nos. 2 and 3 submits that as per the First Information Report which has arisen on the basis of a complaint case this informant is running a coaching class known as Sriram Classes in Biharsharif. It is his submission that all the accused persons came to his coaching institute in the year 2017 and informed him that vacancies for appointment in Bihar and Patna Civil Court on class-IV posts are coming, therefore, the informant may get the applications filled up by his family members and other acquaintances and they will have to pay a sum of Rs.1 lac per candidate. It is further alleged that the informant got filled up the application forms by eight candidates named in paragraph '2' of the complaint petition and Rs.1 lac each candidate were given to the accused persons. Submission of the petitioners is that there is no specific statement in the petition that to whom the money was given. Then it is alleged that the admit cards were given to the candidates and later on those admit cards were found to be forged whereupon the accused persons told the informant that



they will return the money and the informant was asked to wait for some time. This happened in the year 2017.

Then it is alleged that on 25.08.2018 a sum of Rs.1,50,000/- was sent through one Sudhir Choudhary, son of late Hira Choudhary and thereafter Rs.90,000/- was again sent on 10.09.2018, but on the third occasion when a cheque was made available by said Sudhir Choudhary and another cheque was also sent for Rs.10,000/- and Rs.9,50,000/- both the cheques had expired and dishonoured. It is then alleged that this was informed to all the accused persons but thereafter the accused persons came to the institute of the informant abused him and co-accused Uday Shankar Madhav who is not before this Court threatened the informant that he will contest the case and will not give the money and also demanded rangdari.

Learned counsel for these two petitioners submits that from a bare reading of the complaint petition it would appear that this complainant/informant is himself a member of the alleged gang who were collecting money in the name of providing jobs. It is apparent from paragraph '1' itself that he had himself agreed to provide Rs.1 lac per candidate and then had arranged the money. Therefore, his involvement in the whole occurrence cannot be ruled out.



It is further submitted that so far as these petitioners are concerned, there is neither any specific allegation that they had received the money nor these petitioners have issued any cheque to the informant or any other candidate and at no point of time these petitioners have signed any document acknowledging any liability on his own. It is also pointed out that co-accused Uday Shankar Madhav has submitted a complaint to the Superintendent of Police on 29.06.2019, a copy of which has been brought on record. In his complaint, he has acknowledged that he had received Rs.5 lacs from the management of the institute and had agreed to pay interest. Later on, he was unable to pay the interest whereupon the owner of the coaching institute had got some document signed by him. He has also filed a complaint case as contained in Annexure-3 giving rise to Compliant Case No.797/2019 in the court of learned Chief Judicial Magistrate in which petitioner no.3 is a witness and it is for these reasons that these two petitioners have been falsely implicated in this case just by giving their names.

It is then submitted that in course of investigation no material at all has come showing any role of these petitioners in the alleged occurrence. The petitioner no.3 is said to be a student preparing for competitive examination.



On the other hand, learned counsel for the informant and learned APP for the State have opposed the prayer for anticipatory bail of these petitioners. It is submitted that these two petitioners are named in the complaint petition among others and, therefore, they do not deserve privilege of anticipatory bail.

This Court pointedly questioned the learned counsel for the informant as well as learned APP for the State as to whether in course of investigation any specific role of these petitioners have been noticed, whether they are said to have been present while receiving the alleged money or had ever issued any cheque, the answer is that even though no such specific material has come in course of investigation but they are named in the complaint petition and so far as petitioner no.2 is concerned, one more complaint has been filed against him.

Having regard to the facts and circumstances of the case and on going through the materials on record as also the submissions, this Court finds that the complainant-informant is talking of an occurrence which had taken place in the year 2017 and he was himself a party to the same by agreeing to provide Rs.1 lac per candidate to the accused persons. So far as these two petitioners are concerned, no material at all has been



brought to the notice of this Court to show their participation in the alleged occurrence or any specific role played by them in the alleged occurrence. The only thing which is there against the petitioners is that they are named in the complaint petition as accused persons.

This being the position, this Court is inclined to grant anticipatory bail to petitioner nos. 2 and 3. Let the petitioner nos.2 and 3 above-named in the event of their arrest or surrender within a period of four weeks from today in connection with Soh Sarai P.S. Case No.241/2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nalanda, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioners.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

