

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 21823 of 2020

Arising Out of P.S. Case No.-30 Year-2016 Thana-Hisua District-Nawada

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Madheshwar Sharma @ Madheswar Singh, S/o Late Pundev Singh,
R/o Village-Hadsa, P.S. Hisua, District-Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Vaibhav Kumar, Adv.
Mr. Rajeev Nayan, Adv.
For the Opposite Party : Mr. Jagdhar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 17-07-2020 Filing through email of the present application has been accepted in view of the out-break of COVID-19 Pandemic and has been posted before me for hearing through video conferencing.

The application is apparently not in accordance with the provisions prescribed under the Patna High Court Rules, which do not contemplate filing of application through email. In spite of that, considering the extra-ordinary situation, filing of the present application has been allowed through email.



Considering the situation prevailing, the Court has considered, for the present, to ignore the deficiency in filing of the application.

Heard Mr. Vaibhav Kumar, learned counsel for the petitioner and Mr. Jagdhar Prasad, learned Additional Public Prosecutor for the State.

The petitioner seeks pre-arrest bail in connection with Hisua P.S. Case No. 30 of 2016 registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

As per the prosecution case, in the financial year 2008-09, an amount of Rs. 7,08,200/- was allotted for demolition of defective construction and reconstruction of the building of Middle School, Bhadseni, Block-Hisua, Nawada. The progress of the work was not found to be as per specification, for which a direction was issued by the District Programme Officer in November, 2012 but, no FIR was lodged.

Learned counsel for the petitioner submitted that under the orders of the District Programme Officer, Nawada, the FIR was lodged subsequently on 08.02.2016. He contended that the petitioner retired from the service on attaining the age of superannuation in the year 2012 itself. He has suffered paralytic



attack and is unable even to put his signature. He further contended that no occurrence as alleged ever took place and due to callous attitude of the informant, the entire retirement benefit of the petitioner has been withheld.

Opposing the application for grant of pre-arrest bail to the petitioner, learned Additional Public Prosecutor appearing for the State submitted that being the headmaster of the school, the petitioner is responsible for defalcation of the amount of Rs. 7,08,200/- which was withdrawn in the financial year 2008-09. He contended that the delay of few years in institution of the FIR cannot be a ground for grant of pre-arrest bail to the petitioner.

Having heard and considered the rival submissions and on the facts and in the circumstances of the case, since the petitioner has retired about four years prior to the institution of the FIR and there is no reasonable explanation for the delay caused in filing the FIR, I am inclined to grant pre-arrest bail. He is directed to be released on bail, in the event of his arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Nawada in connection with Hisua P.S. Case No. 30 of 2016, subject to the



conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Since, there is a State wide lockdown, the Court has considered it appropriate to adopt the following procedure for communication of the present order :-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Sr. Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Sr. Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) The said order shall be communicated to the Court for the needful by the Sr. Secretary through email.
- (v) Let a copy of the order be sent to Mr. Vaibhav Kumar, learned counsel for the petitioner also on his email.
- (vi) Let steps be taken by the Sr. Secretary/registry for



up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

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