

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74108 of 2019

Arising Out of PS. Case No.-27 Year-2018 Thana- C.B.I CASE District- Muzaffarpur

AKHILESHWAR KUMAR MISHRA Son of Late Nandkishore Mishra
Resident of Village - Mohammadpur, P.S.- Skra, Distt - Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR THROUGH THE VIGILANCE INVESTIGATION
BUREAU, PATNA. BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sangeet Deokuliar

For the Opposite Party/s : Mr.Anil Singh, Spl.P.P., Vigilance

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 16-03-2020 Heard learned Counsel for the petitioner and learned
Counsel for the Vigilance Department.

This application, for grant of anticipatory bail, arises out of Vigilance (Patna) Police Station Case No. 27 of 2018/Special Case No. 16 of 2018, disclosing offences under Sections 409, 420, 467, 468, 471, 477-A, 120-B of the Indian Penal Code and Section 13 (2) read with Section 13 (1) (C) and 13 (1) (D) of the Prevention of Corruption Act, 1988.

The allegation against the petitioner, as per the First Information Report, is that the petitioner, being a public servant, has committed financial irregularities under Border Area Development Programme Scheme inasmuch as in an enquiry conducted by the Vigilance Department, it was found that the



petitioner, being the Principal of the Motihari Engineering College, Motihari, misused his power and misappropriated Government money in connivance with other officials. It has been alleged that the petitioner was holding the post of O.S.D./Incharge Principal of Motihari Engineering College, Motihari and later on he was given additional charge of Chief Co-ordinator for conducting training programmes under Border Area Development Programme Scheme and after appointment of regular Principal, the petitioner continued to function as chief Co-ordinator for conducting training programmes under Border Area Development Programme Scheme, for which a separate notification was issued vide letter dated 10.02.2017 by the District Programme Officer, Motihari. The petitioner, being the Chief Co-ordinator, was aware of all the Government letters and notification. It has further been alleged that earlier a decision was taken by the District Planning Officer, Motihari, by which the Motihari Engineering College, Motihari, was selected to impart training for Computer Hardware and Software, but later on, the principal, with criminal conspiracy with the District Programme Officer, manipulated the said decision and incorporated training programme of poultry farming also in the said letter. In this way, the petitioner succeeded in getting



sanction of poultry farming training to be conducted by Motihari Engineering College, Motihari, whereas no infrastructure was available in the Motihari Engineering College, Motihari, for imparting poultry farming training and the petitioner never communicated to the D.P.O., Motihari that there was no infrastructure available in the Motihari Engineering College, Motihari, for imparting poultry farming training and on the contrary, the petitioner, by letter dated 23.01.2018 informed the D.P.O., Motihari that Motihari Engineering College, Motihari, has the required infrastructure for imparting poultry farming training. It has also been alleged that in the noting dated 08.12.2017, of the District Planning Officer, it has been mentioned that poultry farming training can be conducted by Animal Husbandry Department and not by Engineering Colleges. In the nut shell, it has been alleged that the petitioner, in connivance with other officials, has misappropriated Government money to the tune of Rs. 1,68,49,000/- under various schemes for which the Motihari Engineering College, Motihari, was not equipped to impart training except training for Computer Hardware and Software.

Learned Counsel for the petitioner submits that the petitioner has falsely been implicated in the present case



inasmuch as the petitioner was the Incharge Principal and Chief Co-ordinator for conducting training programmes under Border Area Development Programme Scheme and he has acted on the direction of his superior authority, i.e., the District Programme Officer and all the concerned programme was allotted to the petitioner's college by the District Planning Officer. He further submits that trainees were given training by the competent persons inasmuch as the Motihari Engineering College, Motihari outsourced and invited the trainers from outside for imparting training to the trainees and there is no allegation that the training was not given to the trainees. He further submits that the allegation that the persons from outside districts were given training is not correct inasmuch as all the trainees were within 10 kms radius of the concerned block. He further submits that the petitioner has got no concern with the notings made in the file for allotting training programme to the Motihari Engineering College, Motihari. He further submits that the Driver -cum- Security Guard training programme was not conducted during the tenure of this petitioner. He further submits that the allegation that the petitioner in violation of the norms has imparted training under Security Guard -cum- Cook is not correct because as per the scheme, training in Security



Guard was barred, but training under Security Guard -cum- Cook was not barred. He further submits that Motihari Engineering College, Motihari was registered for vocational training programme.

Learned Counsel for the Vigilance vehemently opposes the prayer for anticipatory bail and submits that the petitioner was actively involved in the offence in connivance with D.P.O. and other officials inasmuch as for the year 2015-16 and 2016-17, the petitioner was instrumental in allotment of training programme of Security Guard -cum- Cook and Security Guard -cum- Driver whereas these programmes were barred under Border Area Development Programme Scheme, but the petitioner cleverly changed the nomenclature and imparted training under Security Guard -cum- Cook and thereby defalcated Rs, 95,44,000/-. He further submits that contrary to the norms, this petitioner has outsourced Unnat Foundation for imparting training under Border Area Development Programme Scheme and accordingly the petitioner has misappropriated Government fund to the tune of Rs. 1,68,49,000/-. He further submits that the investigation is still going on and there is apprehension that the petitioner will influence the witnesses and tamper with the evidence.



Having regard to the submissions made on behalf of the parties and taking into consideration the fact that specific allegation has been levelled against the petitioner on the basis of the enquiry conducted by the Vigilance and investigation is still going on and the investigating agency has raised apprehension that the petitioner will influence the witnesses and tamper with the evidence, I am not inclined to grant the petitioner privilege of anticipatory bail.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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