

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19827 of 2020

Arising Out of PS. Case No.-302 Year-2018 Thana- AURANGABAD TOWN District-
Aurangabad

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Birendra Kumar Sinha, S/O Late Sidheshwar Prasad, Resident of Mohallah -
Talavigaha (Ramabandh), Aurangabad, P.S. - Aurangabad, District -
Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India through Post Master General, Bihar Circle, Patna, Bihar.

... .. Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr.Rakesh Ranjan, Advocate
For the Opposite Party/s	:	Mr.Satyavrat Verma, A.P.P.
For the U.O.I.	:	Mr. Ratnesh Kumar, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-02-2021 Heard learned counsel for the petitioner, Mr. Satyavrat Verma, learned A.P.P. representing the State of Bihar and Mr. Ratnesh Kumar, learned Central Government Counsel for the Union of India.

This is the second attempt of the petitioner seeking pre-arrest bail in connection with Aurangabad Town P.S. Case No. 302 of 2018 registered for the offence punishable under Sections 420, 409, 120(B) of the Indian Penal Code.

Earlier the prayer for anticipatory bail was rejected by this Court vide order dated 13.08.2019 passed in Cr. Misc. No. 33928 of 2019. The order passed by this Court considers the submissions of the parties and then the reasons for rejection are



provided therein. This Court would, therefore, quote the order dated 13.08.2019 hereunder:-

“Heard learned senior counsel for the petitioner, learned counsel for the informants and learned APP for State as also the Union of India.

The petitioner in this case is seeking anticipatory bail in connection with Town P.S. Case No.302 of 2018 registered for the offences punishable under Sections 420, 409 and 120(B) of the Indian Penal Code.

Learned senior counsel for the petitioner submits that the thrust of the allegations in the FIR is against one Nagendra Kumar Sinha. The informants have alleged that the said Nagendra Kumar Sinha, this petitioner and others had been acting together and they have in an organized manner committed fraud and misappropriation to the extent of Rs.46 lacs approximately. It is submitted that so far as this petitioner is concerned, although he is named in the FIR, but there is no specific allegation against him. He has however been falsely implicated in this case because he happened to be the brother of the said Nagendra Kumar Sinha.

On the other hand, learned counsel representing the informant submits that this petitioner is named in the FIR. He along with his brother Sri Nagendra Kumar Sinha had been acting as an agent of the post office and this petitioner is equally involved in the misappropriation and fraud committed in the post office by interpolation of figures in the computer which were within the reach of the petitioner. Learned counsel has produced before this Court a copy of the account opening form of one Mohan Prasad Singh an investor on which the



petitioner has signed as an agent giving his agency number. Learned counsel submits that in the various paragraphs of the case diary which have been taken note of by learned IXth Additional District and Sessions Judge, Aurangabad the investors have named this petitioner as one of the persons involved in the fraud and misappropriation causing huge loss to the investors.

Learned APP for the State as well as learned counsel for the Union of India have also opposed the prayer for anticipatory bail.

Considering the facts and circumstances of the case whereunder the allegations are that huge amount of investors have been misappropriated by committing fraud by the said Sri Nagendra Kumar Sinha, this petitioner and others who were working in the post office as agents and by virtue of their long stay in the post office had got reach to the computer system as also on the face of the allegations which have been specifically made against this petitioner in various paragraphs of the case diary by some of the investors like Ashok Kumar Singh, Mohan Prasad Singh and Shakuntala Tiwary in paragraphs 14, 21 and 24 of the case diary respectively, I am not inclined to grant anticipatory bail to the petitioner.

This application is dismissed.”

After one and half year almost this application for pre-arrest bail has been taken up and learned counsel for the petitioner now prays for two weeks time to allow him to file supplementary affidavit.

This Court called upon learned counsel for the



petitioner to apprise this Court as to what are the change of circumstances so as to allow him to maintain the second application for anticipatory bail, learned counsel for the petitioner submits that in fact one internal enquiry of the matter was conducted and this petitioner has got an information under the RTI from which he has learnt that statements of all the investors are totally different from what has been recorded in the case diary by Police. According to him, the statements recorded in the said internal enquiry are contradictory to each other.

Learned counsel submits that it is for this reason that the petitioner has filed the present application and these are the facts for which another supplementary affidavit was sought to be filed.

Mr. Verma, learned A.P.P. representing the State submits that the F.I.R. in question contains the name of the petitioner, there are allegations against him and this Court has considered those allegations which are specific, there is misappropriation of huge amount of investors' money and this Court had referred some of the paragraphs of the case diary in which the investors' statements have been recorded by the I.O.

It is his submission that while considering the application for anticipatory bail, this Court may not go into the submissions by which now contradictions are being sought to be



shown to this Court. In his submission, the Court would not be considering the evidentiary value of the materials on the record while considering the prayer for anticipatory bail.

Learned counsel for the Post Master General, Bihar has also taken the same stand.

Considering the facts and circumstances of the case, finding that this is the second attempt of the petitioner after one and half years and even though the order passed by this Court earlier contains the reasons for rejection, the petitioner has chosen not to appear in the learned court below and pray for regular bail, the submission that the statement recorded in the internal enquiry said to be held and those statements be considered *vis a vis* the statement recorded by the I.O. in the case diary are only misconceived kind of submissions and this Court would not be considering such submissions in the present application.

This application has no merit, it is dismissed accordingly.

(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'.

