

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42132 of 2019

Arising Out of PS. Case No.-757 Year-2017 Thana- JAHANABAD District- Jehanabad

SURESH KUMAR SINHA @ SURESH PRASAD S/o Late Shiv Nandan Prasad, R/o village- Suggi, P.S.- Jamui, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Officer Incharge, Vigilance Department, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Satya Ranjan Sinha
For the State	:	Mr. Ajay Mishra, APP
For the Vigilance	:	Sri Anil Singh, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

11 01-11-2021 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State assisted by the learned counsel for the informant as well as the learned Standing Counsel for the Vigilance Department.

In this case, the petitioner apprehends his arrest in connection with Jehanabad P.S. Case No. 757/2017 registered for offence punishable under sections 420, 467, 468, 470, 472, 409 and 120B of the Indian Penal Code.

The present case has been lodged on the basis of direction of this Court in C.W.J.C. No.15459/2014. The Bench of this Court in that case found that an irregularity on mass scale was committed during the appointment of the Block Teachers. As per



direction of the Court, the FIR was lodged and the matter was enquired. During inquiry, it was found that altogether 13 Teachers named in the FIR have been appointed on the basis of manipulation in the papers of their appointment. Allegedly their marks have been enhanced.

Learned counsel for the petitioner has submitted that the petitioner is Executive Officer-cum-Block Development Officer. As such, he is ex-officio member of the panel constituted for recommendation of the select list of the Teachers. The learned counsel has further submitted that the appointment was done in the year 2006 whereas the FIR was lodged in the year 2017. As such, there is a delay of 11 years. He has also submitted that some of the Teachers, who are said to be appointed by enhancing marks, have been granted bail. The third submission of the learned counsel is that although the petitioner is admittedly one of the members of the panel but he is not only member, rather the panel consists of five members. He has further submitted that the panel is only a recommending body and on the recommendation of that panel, the appointment is done by the Panchayat Education Committee.

Per contra, the learned Additional Public Prosecutor for the State and the learned Standing Counsel for the Vigilance have submitted that the panel is not only recommending panel, but it is an appointing panel. In this respect, he drew my attention towards Rule 9 (iv) of the Bihar Panchayat Primary Teachers (Appointment



and Service Conditions) Rules, 2006.

From perusal of the Rule it appears that the panel is constituted under Rule 9 (vii) (a). From perusal of Rule 9 (iv) it appears that this panel is not only for recommendation, but also for appointment, as the word appointment has specifically been mentioned in Rule 9 (iv). My attention has also been drawn towards Rule 11 which entrusts duty upon the Executive Officer, who admittedly is the petitioner, to enquire into the authenticity and validity of the certificates produced by the candidates. Not only duty has been provided but also a right has been given to the Executive Officer to cancel the appointment, if he finds that the certificates produced by the candidates are forged and fabricated. By relying these rules, learned Additional Public Prosecutor and learned counsel for the Vigilance have submitted that the petitioner abstained from his duty enshrined in him by virtue of Rule 11 and this abstainment is intentional for extraneous reasons.

In these circumstances, I do not think it a fit case for anticipatory bail. Accordingly, the prayer for bail is hereby rejected.

(Nawneet Kumar Pandey , J)

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