

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28538 of 2020

Arising Out of PS. Case No.-755 Year-2019 Thana- BETTIAH CITY District- West
Champaran

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Sudhir Kant Shukla S/o Vishesar Shukla R/o Ward No. 15, Shukla Tola,
Chanpatiya, P.S.- Chanpatiya, District- West Champaran. Petitioner

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey,Advocate
For the Opposite Party/s : Mr.Manoj Kumar, APP
For the Informant : Mr.Anirudh Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 22-01-2021 Heard learned counsel for the petitioner, learned counsel for
the informant and learned APP for the State.

The petitioner in the present case is seeking pre-arrest bail in
connection with Bettiah (Town) P.S. Case No. 755 of 2019 registered
for the offence punishable under Sections 420, 467, 468, 471, 419/34 of
the Indian Penal Code.

Earlier while calling for the case diary, this Court granted
interim protection to the petitioner. In this regard the order dated
04.12.2020 passed by this Court is being reproduced as under:-

“Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within
four weeks after start of normal functioning of the
Court.

Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

The petitioner, in the present case, is seeking prearrest
bail in connection with Bettiah (Town) P.S. Case No.
755/2019 registered for the offences punishable under
Sections 420, 467, 468, 471, 419/34 of the Indian
Penal Code.



Learned counsel for the petitioner submits that the present case has been lodged at the instance of the District Welfare Office, West Champaran, Bettiah. Learned counsel submits that in fact by lodging the F.I.R. the District Welfare Officer is only trying to divert the attention from the complaints received from the E-Dashboard of the Office of the Chief Minister vide letter no. 797 dated 19.03.2019 and the another letter being letter no. 631 dated 26.03.2019 which has been forwarded by the National Scheduled Caste and Scheduled Tribe Commission, New Delhi for verification.

Learned counsel submits that earlier an inquiry was conducted in the matter of financial irregularities and illegalities committed in purchase of Almirah and other materials and a joint team had submitted a report, the final conclusion whereof is available at page '99' of the brief wherein they had found the allegations true. Learned counsel submits that the District Welfare Officer is the head of the Institution where the purchases have been made illegally and huge misappropriations have been done, now he misusing his power and by lodging the present kind of F.I.R. alleging that this petitioner had been writing complaint in the name of others by forging their signatures, he is only trying to divert the attention from the complaints with regard to misappropriation of government money. Learned counsel has further pointed out that prior to sending the disputed signature and admitted signature for forensic examination, no specimen signature of the petitioner was taken and in fact the District Welfare Officer himself recorded in one of the letters, copy of which is available at page '44' of the brief, that some of the applications which were being earlier received in the department in the name of this petitioner have been taken as admitted signature. It is thus submitted that the petitioner is being falsely implicated in this case.



Call for xerox/carbon copy of the case diary from the court of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Bettiah (Town) P.S. Case No. 755/2019.

List this case on receipt of the same or on 18th January, 2021.

Till next hearing of the matter, no coercive action shall be taken against the petitioner, however as and when required by the Investigating Officer preferably within a period of two weeks from today, the petitioner will present himself before the Investigating Officer and shall cooperate in course of investigation.

An affidavit showing compliance of this part of the order shall be filed by the petitioner before next date of hearing of the matter.

List accordingly.”

The case diary has been received. The informant who has retired from the post of District Welfare Officer has chosen to enter appearance through his own Advocate. This Court has heard learned counsel for the informant as well in detail.

In today's hearing, learned counsel for the petitioner submits that the fact that the informant who happened to be a retired government servant and had filed the FIR in his official capacity has chosen to oppose this application by engaging a lawyer, is itself indicative of the fact that he has got animosity against this petitioner.

It is his submission that after his retirement the informant is being proceeded against by the Department for the various irregularities, alleged misappropriation in purchase of sub-standard materials and one of the allegations against him is that without getting approval from the competent authority he had sent the applications which were sent to his office from the E-dashboard of the Chief



Minister and was forwarded by the National Scheduled Castes and Scheduled Tribes Commission, New Delhi for verification to a forensic lab situated in the State of Uttar Pradesh.

Learned counsel submits that in this case the informant has himself become investigator, he has been claiming that he got the handwriting of the petitioner verified through the forensic labs and based on that the present FIR has been lodged.

The allegation is that this petitioner had forged the signatures of different persons to lodge the complaint against the informant but this petitioner was never called upon to submit his admitted signature.

Learned counsel for the informant has appeared and filed a counter affidavit. Learned counsel has tried to explain to this Court that the signature appearing on the complaint petitions were sent to the forensic labs not only to the State of Uttar Pradesh but to police laboratory CID Bihar as well. In his counter affidavit, however, he has not brought on record any material to show that the complaint petitions allegedly lodged by this petitioner by putting forged signatures were being enquired into by any investigating agency pursuant to a complaint in this regard. In the counter affidavit though it is stated that the signatures were examined at the instance of one Deputy Director but no such order either has been brought to the counter affidavit or in the case diary.

Learned APP for the State has also opposed the prayer for anticipatory bail of the petitioner. It has been brought to the notice of this Court that the petitioner has got a criminal antecedent.



Learned counsel for the petitioner has explained to this Court that in one of the cases a Bench of this Hon'ble Court has been pleased to quash the case and in one case police had submitted a final form but then on protest a complaint petition has been lodged. It is submitted that since the petitioner was under impression that police had submitted a final form, this fact was not brought to the notice of the learned Advocate. Learned counsel for the petitioner has submitted that this was an inadvertent mistake which he has corrected by filing the second supplementary affidavit.

Having regard to the facts and circumstances of the case, wherein the allegation against the petitioner is that of submission of complaint petitions against the informant by forging signatures of some other persons, however, in the nature of the materials showing that the investigating agency has till date not sent complaint petition to the forensic science laboratory for examination and so far as the investigating agency is concerned, in the case diary it has not come that any admitted signature of the petitioner has been sent for forensic test by the investigating agency, in the nature of the allegations and materials, let in case of his arrest or surrender the petitioner above named within a period of four weeks from today in connection with Bettiah (Town) P.S. Case No. 755 of 2019 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran, subject to the condition 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 petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application is disposed of accordingly.

Learned APP for the State has returned the case diary. Let it be kept on record.

(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'.

