

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.33678 of 2020

Arising Out of PS. Case No.-254 Year-2019 Thana- KHODAWANDPUR District- Begusarai

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EKNATH PATHAK, Son of Bindeshwari Pathak RESIDENT OF VILLAGE -
PAHSARA, P.S. NAWKOTHI, DISTRICT - BEGUSARAI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Shekhar Kumar Singh
For the Opposite Party/s	:	Mr. Satyendra Prasad, APP
For the Informant	:	Ms. Madhuri Lata, Advocate Mr. Randhir Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 19-03-2021 A supplementary affidavit has been filed on

behalf of the petitioner in the Court.

Let it be accepted and taken on record.

Heard Mr. Rajendra Narayan, learned senior

Advocate for the petitioner and Ms. Madhuri Lata,

learned counsel for the informant.



The State is represented by Mr. Satyendra Prasad, learned APP.

The petitioner seeks bail in anticipation of his arrest in connection with Khodawandpur P. S. Case No. 254 of 2019, dated 22.11.2019, instituted for the offences under Sections 409, 419, 420, 467, 468 and 471 of the Indian Penal Code.

The accusation in the F.I.R. is that the petitioner in his capacity as Principal of MRD Inter College, Meghaul, has unauthorizedly opened a Bank account in the name of the college in a Cooperative Bank in collusion with the authorities of that Co-operative Bank and has siphoned off money to the tune of approximately Rs. 40,000,00/-.

Mr. Rajendra Narayan, learned senior Advocate for the petitioner has pointed out that there is a dispute between the Managing Director of the college and the petitioner, who for a long time, had served as Principal of the college. The informant of this case claims himself



to be the Incharge Principal against whom the petitioner in his capacity as Principal had in the past initiated a proceeding for his remaining absent from his duty as a Lecturer in the College.

Apart from this, it has been submitted that according to the direction of the State Education Department, every such private college was under an obligation to open two accounts in its name: one for the funds which are self generated and the other in which the amount of grant-in-aid is remitted by the Government. The money under the grant-in-aid is for the purposes of paying salary of teaching and non teaching staff of the college.

The learned counsel for the petitioner has submitted that both the allegations, viz., of opening an account unauthorizedly in a Cooperative Bank and siphoning off funds, are incorrect, as the petitioner in his capacity as Principal was under an obligation to open such account.



The allegation of misappropriating the funds also does not appear to be correct as, it has argued, all the staff (teaching and non-teaching) have been paid their salary from that account. Details of the expenses made by the petitioner in his capacity as Principal has been brought on record by way of various annexures to the bail application.

Apart from this, it has been submitted that several cases have been lodged against the petitioner by the management of the college including the present one where one of the staff of such college who has claimed himself to the Incharge Principal is the informant.

Ms. Madhuri Lata, learned counsel for the informant however has submitted that with this kind of accusation against the petitioner on several occasions and the petitioner having misappropriated a huge amount of money, he does not deserve to be granted anticipatory bail.

She has further submitted that one of the co-



accused persons of this case has filed a regular bail application before this Court. The petitioner also, it has been urged, would be well advised to surrender before the court below and seek bail. She has also pointed out that in one of the cases (Kodabandpur P. S. Case No. 56 of 2018), the anticipatory bail of the petitioner was rejected but notwithstanding that fact, it has been stated in paragraph 3 of the petition that the petitioner was granted anticipatory bail in the aforesaid case. This being a wrong statement, the petitioner would be dis-entitled for grant of anticipatory bail.

In response to the aforesaid accusation, Mr. Rajendra Narayan, learned senior Advocate has brought to the notice of this Court an order passed by the same Bench which had earlier rejected the anticipatory bail applications of the petitioner, whereby it was taken note of by that Bench that certain facts were not brought to its notice even though a supplementary affidavit had been prepared. Considering that ground, the petitioner



was granted provisional anticipatory bail in the aforementioned case.

Finally, the petition for anticipatory bail in this case was rejected on the ground that final form had been submitted by the police.

It has been urged on behalf of petitioner that precisely for this reason that a confusion had arisen at the time of drafting of the bail petition.

Mr. Narayan has further submitted that differing with the police report, cognizance has been taken in the aforesaid case.

Considering the overall circumstances of this case and the fact that there has been a dispute between the Managing Director and the petitioner in his capacity as Principal and that there is *prima facie* explanation of the expenses so incurred by the petitioner regarding the funds which were deposited in the Bank account opened by the petitioner, he is directed to be released on bail, in the event of his arrest or surrender before the court



below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Meghaul, in connection with Khodawandpur P. S. Case No. 254 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

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