

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37215 of 2020

Arising Out of PS. Case No.-47 Year-2019 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Dhananjay Yadav, aged about 35 years, Gender-Male, Son of Sikendra Yadav,
Resident of Village - Raipura, PS - Goradih, District – Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Advocate

For the State : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-09-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Manoj Kumar Jha, learned counsel for the petitioner and Mr. Chandra Bhushan Prasad, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Learned counsel for the petitioner undertakes to file the petition supported by affidavit latest by 7th September, 2021.
Let the same be done.

4. The petitioner apprehends arrest in connection with Kotwali (Jogsar) PS Case No. 47 of 2019 dated 21.01.2019, instituted under Sections 427/353/384 of the Indian Penal Code.



5. The allegation against the petitioner and others is of creating nuisance in the office of the Zila Parishad on 15.01.2019 when a meeting for consideration of 'No Confidence Motion' against the President was being conducted.

6. On 13.07.2021, learned counsel for the petitioner had submitted that the allegation is false as his wife is a Zila Parishad Member and he had taken her to the Centre for participating in the Special Meeting, but the meeting could not proceed and the Chief Executive Officer as well as the Vice President of the Zila Parishad, Bhagalpur in the recorded minutes dated 15.01.2019 had given in detail the reason why the meeting could not proceed, which was basically due to lack of quorum. It was submitted that in the said minutes, there is absolutely no mentioning of any violence or incident as is alleged in the FIR which has been lodged by the Block Development Officer, Goradih-cum-Deputed Magistrate, Bhagalpur of the said Special Meeting. It was contended that even the contention that from the CCTV footage, as the FIR is against unknown, the petitioner has been identified and thus, made accused; the same is also incorrect as there is no footage with regard to the petitioner committing any overt act, much less, any violent act so as to be made an accused in the case. It was submitted that the President against whom there was 'No



Confidence Motion' had taken away many members on a trip to Nepal, deliberately to frustrate the consideration of 'No Confidence Motion' against him and the Block Development Officer in connivance with him had lodged the case after five days of the occurrence, which itself indicates that it has been done for oblique reasons.

7. In opposition, learned APP had submitted that though there is delay in lodging of the FIR, but the same is because the CCTV footage was being verified to identify the culprits which took time. It was submitted that perusal of the order of the learned Additional Sessions Judge XII, Bhagalpur dated 21.08.2020 in ABP No. 972 of 2020, by which the prayer for pre-arrest bail of the petitioner, along with another co-accused has been rejected, indicates that from the photograph and the video recording it is clear that the petitioner, along with other persons, was causing damage in the chamber of the President of the Zila Parishad. However, to verify the actual position, he had submitted that the Court may call for a report from the police.

8. Learned counsel for the petitioner had submitted that he was ready to cooperate in the exercise.

9. Having regard to the aforesaid stand taken by learned counsel for the parties on 13.07.2021, the Court had directed the



Senior Superintendent of Police, Bhagalpur for conducting an exercise with regard to comparison of the CCTV footage of the incident where the presence and behaviour/action of the petitioner would be noted in his presence, with reference to such CCTV footage. Thereafter, a report was required to be submitted. Though, there has been delay in completion of the exercise, but finally the same has been done on 25.08.2021.

10. In terms thereof, the Senior Superintendent of Police, Bhagalpur has submitted a report in which the outcome of the said exercise has also been brought on record which indicates that the petitioner was seen coming out of the chamber of the then Chairman along with others and after office of the Zila Parishad, Bhagalpur being locked, the petitioner had also raised slogan against the Chairman.

11. Learned counsel for the petitioner submitted that out of enthusiasm, he had raised slogans and his presence was due to the fact that his wife was Member of the Zila Parishad. However, it was submitted that no vandalism was caused.

12. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that by the conduct of the petitioner, when admittedly he is the husband of the Zila Parishad Member, there was no



business for him to be coming out of the chamber of the Chairman and thereafter shouting slogan. This clearly indicates that he had a role, which was not proper and rather against the law. Thus, the Court is not persuaded to grant pre-arrest bail to the petitioner.

13. Accordingly, the petition stands dismissed.

14. Interim protection granted to the petitioner under order dated 13.07.2021, stands vacated.

(Ahsanuddin Amanullah, J.)

P. Kumar

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