

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3675 of 2021

Arising Out of PS. Case No.-52 Year-2019 Thana- VIGILANCE District- Patna

1. RAM NARAYAN RAM Son of Late Nageshwar Ram Resident of Alta Hat, P.S.-Kechadhawan, District-Kishanganj.
2. Md. Quasim Son of Late Md. Imam Ali Resident of Village-Pulbari, P.S.-Terhagachh, District-Kishanganj
3. Shailendra Kumar Singh Son of Sri Lawindra Prasad Singh Resident of Village-Bagalbari, P.S.-Kechadhawan, District-Kishanganj.
4. Satrugan Thakur Son of Late Mukhtar Thakur Resident of Village-Dumaria, P.S.-Kishanganj, District-Kishanganj.
5. Shambhu Kamati Son of Bishwanath Kamati Resident of Mohalla-Dumaria, P.S.-Kishanganj, District-Kishanganj
6. Mahesh Prasad Thakur Son of Ram Pravesh Singh Resident of Mohalla-Adarsh Nagar, New Etwarpur, Kurthaul, P.S.-Jakkanpur, District-Patna
7. Md. Tarique Hussain Son of Md. Hamid Hussain Resident of Mohalla-Dharanganj, P.S.-Kishanganj, District-Kishanganj.
8. Devendra Chauhan Son of Balo Chauhan Resident of Mohalla-Dumaria, P.S.-Kishanganj, District-Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance Bihar Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur- Advocate Mr. Udbhav- Advocate Mr. Shivam- Advocate Ms. Vaishnavi Singh- Advocate
For the Vigilance	:	Mr. Rana Vikram Singh- Advocate
For the State	:	Mr. Mukeshwar Dayal- A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 10-09-2021 Heard Mr. Ajay Kumar Thakur, the learned Advocate for the petitioners, Mr. Rana Vikram Singh, the learned Advocate for the Vigilance and Mr. Mukeshwar Dayal, the learned APP for the State.

The petitioners seek bail in anticipation of their arrest in connection with Vigilance Patna P. S. Case No.52 of 2019, instituted for the offences under Sections 420, 467, 468, 471 and



120B of the Indian Penal Code and Sections 13(2) and 13(1)(D) of the Prevention of Corruption Act.

According to the accusation in the F.I.R., a vigilance inquiry had commenced on the complaint of one Damodar Karmkar that huge bungling has been done in the appointment of Class-IV employees pursuant to the advertisement no.2/1999. There was allegation with respect to the process of examination and interpolation in the tabulation chart. Three writ petitions were also filed before this Court vide CWJC No.8902/ 2011, 8722/ 2011 and 8949/ 2011 and pursuant to the orders passed by this Court in the aforesaid cases, inquiry had begun. During the course of inquiry, out of 143 answer sheets, 125 was subject to investigation. Out of those answer sheets, 66 answer sheets including those of the petitioners were found to have been interpolated. There were overwritings and changes in the tabulation chart.

Mr. Ajay Kumar Thakur, the learned Advocate for the petitioners has submitted that they are Class-IV employees and assuming but not admitting the fact that there were interpolation or overwritings in the tabulation chart as also in their answer books, they cannot solely be blamed for the same. He further submits that some of the accused persons of this case whose



conduct as examiner was found to be suspicious has been granted anticipatory bail by a Bench of this Court.

As opposed to the aforesaid contention, the learned Advocate for the vigilance has pointed out that during the course of investigation, some of the examiners have also testified to the fact that the tabulation chart was tampered with. He further submits that the petitioners are the beneficiaries of such tampering and interpolations in the tabulation chart and if they were not in cahoots such huge bungling in the matter of appointment of Class-IV employees would not have been done. He further submits that the petitioners do not deserve anticipatory bail for the reasons that the investigation in this case is still pending and their cases stand on different footing from the one in which anticipatory bail has been granted by a Bench of this Court. In his case, this Court had observed that merely because a person is an examiner of some of the answer books, over-writings in some of the other answer books would not entitle the prosecution to saddle the entire guilt on such a person.

The case of the petitioners would therefore stand on a different footing.

After having heard the learned counsel for the parties



and having perused the records, it appears that the F.I.R. has been registered after 13 years of appointment of the petitioners on the Class-IV post. The implication of the petitioners in this case is only on the basis of the principle of *cui-bono* meaning thereby that suspicion does veer around such persons who get benefited by a particular act which has been complained against. Petitioners fall in the list of those 66 persons whose answer books were found to have been tampered. Beyond the implication of the petitioners on this ground, there is no other material to connect them with the offence especially at this stage of investigation. Otherwise also, since 13 years have elapsed since their appointment and 18 years have passed by since the advertisement was published, this Court deems it appropriate to grant the privilege of anticipatory bail to the petitioners.

While saying so, the Court has also taken note of the fact that they are Class-IV employees who have still been retained in service and no proceeding has been initiated against them departmentally against any misconduct.

Regard being had to the facts afore-stated, the petitioners, above-named, in the event of their arrest or surrender before the learned Court below within a period of eight weeks, are directed to be released on bail on their



furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, Bhagalpur in connection with Vigilance (Patna) P. S. Case No.52 of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

However, it is made clear that the petitioners shall participate in the investigation and any effort on their part to dodge the investigation or delay the process would render the anticipatory bail granted to them liable to be cancelled.

The vigilance, in that context would be perfectly justified to file an application for cancellation of their bail. In that event, the Vigilance Court shall proceed in the matter forthwith after noticing the petitioners.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

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