

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75082 of 2019

Arising Out of PS. Case No.-10 Year-1999 Thana- C.B.I CASE District- Muzaffarpur

DR. NAJEEB AKHTAR Son of Md. Nural Hoda Governing Council, Muslim Umma Education and Welfare Society, Darbhanga - Cum- Secretary, Managing Committee, Fakhruddin Ali Ahmad Sikshak Prasikshan Mahaviyalaya, Bangali Tola, Laheriasarai, P.S.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance Department, Vigilance Investigation Bureau, Patna, Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Verma, Sr. Adv.
	:	Mr. Karuna Nath Sahay, Adv.
For the Opposite Party/s	:	Mr. Arvind Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 09-08-2021 Heard Mr. Rajiv Kumar Verma, learned senior Advocate for the petitioner and Mr. Arvind Kumar, learned Advocate for the Vigilance Investigation Bureau.

This is an application on behalf of the petitioner seeking bail in anticipation of his arrest in connection with Vigilance P.S. Case No. 10 of 1999 corresponding to Special Case No. 07 of 2002 which has been registered for investigation under Sections 420, 465, 468, 471, 477(A), 109 and 120(B) of the Indian Penal Code, Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act and Section 4(2) of the Bihar Non Govt. Physical



Training College and Non Govt. Teacher Training College and Non Govt. Primary Teachers Training College (Regulation and Control) Act, 1982.

The prayer for anticipatory bail of the petitioner was earlier rejected vide order dated 07.03.2020 passed in Cr. Misc. No. 1100 of 2000.

Another application was filed by the petitioner vide Cr. Misc. No. 33017 of 2018, in which this Court observed that it was a very old case and there was nothing on record to indicate as to how, without any order in favour of the petitioner, no arrest was effected or that investigation was kept pending for so long.

Charge-sheet appears to have been submitted in this case only in the year 2017 whereafter cognizance has been taken.

The second anticipatory bail application was again heard by a Bench of this Court and on 08.01.2019, the application was disposed of with a direction to the petitioner to first move the learned Special Judge, Vigilance, North Bihar, Muzaffarpur and for doing so, the petitioner was



granted interim protection for a brief period.

The Court below has again rejected the application of anticipatory bail of the petitioner by a cryptic order stating that since the High Court has directed for filing a fresh application before the Court below, the same is being entertained but is again being rejected.

A very casual approach has been adopted by the learned Vigilance Court in rejecting the application as if only a formality was being done. There is not a word in the order about the nature of accusation or the defence of the petitioner or the reasons for rejecting such application.

In the opinion of this Court, entertaining an application on the observation of the High Court and disposing it off in such a casual manner tantamounts to treating the High Court's order very lightly. If a matter is remanded to the Court below, it is expected that the Court shall address itself to the merits of the case and shall thereafter pass orders.

In any view of the matter, the accusation against the petitioner is that he being the Secretary of Fakhruddin



Ali Ahmad Teachers Training College, has allowed the students to be admitted in the college without appropriate approval of the concerned Academic Authority.

Mr. Verma, learned senior Advocate for the petitioner has submitted that such accusation has not been borne out by the records and the later developments in the case, viz. the concerned Academic body granting affiliation to the college has not been taking into account. He has also informed this Court that when the certificates issued to the students by the college were set aside, the same was restored as no anomaly was found in the functioning of the institute. An order passed in C.W.J.C. No 2407 of 2000 has been referred by the learned counsel for the petitioner in support of the aforesaid contention. He has also pointed out that the counter affidavit by the Vigilance Department is misleading in as much as it has only been stated therein that the certificates issued by the Institution has been withdrawn. The later developments have deliberately been suppressed, giving an impression that the future of the students who had taken admission in the college was completely ruined and the



management of the Institution including the petitioner benefited from such unauthorized admissions in the Institution.

In any view of the matter, what this Court is surprised at is the elephantine delay in concluding the investigation and completing the trial. The Court below has not even taken the basic care of informing in the order about the stage of the case. Few of the paragraphs of the case diary have only been quoted in the order without referring to the contents of such paragraphs or any traceable link between the materials disclosed in such paragraphs of the investigation papers and the conduct of the petitioner.

This Court does not approve of this manner of handling a bail petition. This Court also does not approve of the manner in which facts have been stated before this Court by the Vigilance Department. Any incomplete set of facts is capable of presenting distorted truth before the Court. Basing an order on such distorted set of facts would neither be beneficial for the prosecuting agency nor for the justice dispensation system.



So far as the merits of the case is concerned, regard being had to the fact that this is a very old case and there is little possibility of the case being concluded in near future and that in the interregnum, the certificates issued to such students who had taken admission in the college has been restored and validated, this Court deems it appropriate to direct that in the event of arrest or surrender of the petitioner before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, he shall be released on bail on his furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, North Bihar, Muzaffarpur, in connection with Vigilance P.S. Case No. 10 of 1999 corresponding to Special Case No. 07 of 2002, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure

However, it is directed that the petitioner shall participate in the Trial and if the Trial is delayed on any account which would be attributable to the petitioner, it



would be open for the Vigilance Department to move for cancellation of his bail. The Court below also is directed that if the Vigilance Department also gives an unduly long rope to the petitioner, the Court shall suo motu proceed for cancellation of the bail of the petitioner in case it is found that the pace of the Trial is attempted to be slowed down because of the conduct of the petitioner.

The applications stands disposed of accordingly.

(Ashutosh Kumar, J)

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