

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24490 of 2021

Arising Out of PS. Case No.-741 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Aizaj Hussain @ Ejaj Hussain, aged about 68 years, male, Son of Late Akhtar Hussain, Resident of village- Mansha Tola, P.S.- Bettiah Muffasil, Distt.- West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Md. Tabrej, Son of Late Md. Reyaz, Resident of village- Mansha Tola, P.S.- Bettiah Muffasil, Distt.- West Champaran at Bettiah.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv.
For the O.P. No. 2	:	Mr. Arvind Kumar Singh, Adv.
For the State	:	Mr. APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 24-05-2022 Heard Mr. Ramakant Sharma, the learned Senior Advocate for the petitioner and Mr. Arvind Kumar Singh, the learned counsel for the complainant/opposite party No. 2.

The State is represented by the learned APP.

The petitioner seeks bail in anticipation of his



arrest in connection with Complaint Case No. 741-C of 2017 in which cognizance has been taken against him under Sections 420, 467, 471 and 120(B) of the Indian Penal Code.

The petitioner was earlier granted anticipatory bail by this Court *vide* order dated 24.10.2019 passed in Cr. Misc. No. 63860 of 2019. While passing the order, the Court took note of the fact that the petitioner was one of the prosecution witnesses in Bettiah Muffasil P.S. Case No. 719 of 2015 lodged by co-accused/Md. Kaish against the complainant and only because of that, the petitioner was made accused in the aforesaid case. The other functionaries of the Government were also made accused along with the petitioner. However, the Court found that the statement made on behalf of the petitioner about his antecedent was not correct as in the bail petition it was averred that the petitioner had only one case lodged against him apart from the subject complaint.



However, on the information provided by the counsel for the complainant/opposite party No. 2, it was discovered that the petitioner had seven cases against him, the details of which had been noted in the order dated 24.10.2019.

Considering the aforesaid mismatch in the number of cases reported and disclosed against the petitioner, who was petitioner No. 2 in the aforesaid application, one of the petitioners was granted anticipatory bail, whereas respect to the petitioner, who was petitioner No. 2 in the earlier petition, the Court had observed that the provisional bail granted to him would be confirmed only after verification with respect to his criminal antecedents.

It was further submitted that if the petitioner was found to have been made accused in any case other than Bettiah Town P.S. Case No. 240 of 1996, his bail-bonds would stand automatically cancelled.

It has been submitted on behalf of the petitioner that when the matter was being examined



by the Court below, even though it was urged that in all the cases referred to by the complainant against the petitioner had either ended in acquittal or final report declaring the case to be mistake of fact or false, the provisional bail of the petitioner was not confirmed.

The petitioner, thereafter, approached this Court for modification of the order date 24.10.2019, but the same was rejected as having been withdrawn.

The learned counsel for the petitioner has submitted that the mismatch was pointed out in the proceeding before this Court in Cr. Misc. No. 63860 of 2019.

Though the order clearly stated that the reference of the cases given by the complainant had to be verified by the Court below before confirming the provisional bail of the petitioner, but the Court below did not take into account that the current status of the case was required to be seen.

According to the learned counsel for the



petitioner that since in all cases which have been referred to by the complainant, the petitioner does not remain an accused as on date as all such cases have ended in either acquittal or final report having been found to be false, which report has been accepted by the Court below, the petitioner deserves to be released on anticipatory bail.

As opposed to the aforesaid contention, the learned counsel for the complainant/opposite party No. 2 has submitted that the petitioner had made wrong statement before this Court and had also tried to deflect the course of justice by narrating false facts. In fact, according to the complainant, the petitioner has been made accused in twenty four cases and considering the number of cases against him, the administration, at that point of time, had toyed with the idea of subjecting the petitioner to the rigorous of Crime Control Act.

Mr. Ramakant Sharma, the learned Senior Advocate, in response to the aforesaid statement, has



submitted that as on date, there is no case pending against the petitioner and the proposed prosecution of the petitioner under the Bihar Crime Control Act did not find favour with the Advisory Board. Thus, it has been submitted that but for two or three cases, out of those 24 cases in which the petitioner has been acquitted or the case has been found to be false, there are no serious cases lodged against him in recent past.

It has further been submitted that the petitioner is 70 years old who is now a changed man and no useful purpose would be served in sending him behind the bar.

Considering the afore-noted circumstances and taking the background fact of the petitioner being one of the witnesses in a case lodged by Md. Kaish against the complaint of the present case, the petitioner, in the event of his arrest or surrender before the learned Court below within a period of four weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, West Champaran at Bettiah in connection with Complaint Case No. 741-C of 2017, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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