

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20141 of 2022

Arising Out of PS. Case No.-873 Year-2021 Thana- JAHANABAD District- Jehanabad

SHRI BIRENDRA NATH AZAD Son of Late Ram Kishun Das (Retired Technician), Resident of Azad Bhavan, Mahavir Chowk, P.S.- Barbigha, District - Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudish Kumar, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 23-08-2022 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 467, 468, 471 and 409 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent and has retired in the year 2021 and the informant, the District Fishery Officer-cum-Chief Executive Officer, Jahanabad, has alleged that petitioner being the Clerk of the District Fishery Office is alleged to have drawn excess pay of Rs. 9, 67,556/- after getting his pay fixed wrongly in the service book during his tenure at Jahanabad in connivance with the District Fishery Officer,



Jahanabad as such the petitioner has misappropriated the government money by causing loss to the said ex-cheques.

Learned counsel for the petitioner submits that from bare perusal of allegation as alleged in the FIR, it would manifest that the same is absurd, it is next submitted that the issue relates to service dispute, it is further submitted that, in the event, if the petitioner has drawn excess amount then the informant has remedy available to recover the said amount, but the informant instead of resorting to remedy available in law has chosen to file a criminal case in order to coerce the petitioner into submission to return the money under fear of arrest when petitioner is disputing the allegations as alleged in the FIR, the learned counsel for the petitioner next submits that petitioner has not drawn excess salary rather as per 7th pay revision is entitled for the said amount which has been fixed by the District Fishery Officer-cum-Chief Executive Officer, Jahanabad, it is next submitted that petitioner has even filed C.W.J.C. No. 4229 of 2022 against the order dated 28.08.2020 issued by the District Fishery Officer, Jahanabad whereby he was directed to deposit the excess withdrawn amount in between 12.07.2018 to 30.06.2020, the learned counsel thus submits that when the informant himself has issued an order with regard to recovery



where was the occasion for instituting the present FIR, it is also submitted that the present FIR is nothing but an abuse of the process of the Court, the learned counsel next submits that even the learned District Court in a mechanical manner, who pleaded to reject the anticipatory bail application of the petitioner without appreciating the facts of the case in its correct perspective.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 2,000/- (Rupees Two Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Jahanabad P.S. Case No. 873 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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