

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38906 of 2020

Arising Out of PS. Case No.-543 Year-2019 Thana- KISHANGANJ District- Kishanganj

AKBAR AHMAD, S/o Bazrul Karim, R/o Village- Naya Tola Line Bazar,
Behind Tulba Masjid, P.S. K.Hat, District- Purnia Petitioner
Versus

1. The State of Bihar
2. Executive Engineer, Rural Works Department Work Division, Araria
854311 Opposite Parties

Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Sanjeev Kumar Singh, Advocate
For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

13 30-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within two weeks after start of normal functioning of the Court.

Heard Mr. P.K. Shahi, learned Senior Counsel assisted by Mr. Sanjeev Kumar Singh, learned Advocate for the petitioner and Mr. Akshay Lal Pandit, learned A.P.P. for the State.

Petitioner in the present case is seeking pre-arrest bail in connection with Kishanganj P.S. Case No. 543 of 2019 registered for the offences punishable under Sections 420, 467, 468, 471, 120(B) of the Indian Penal Code.

The Superintendent of Police, Kishanganj and the Investigating Officer, the previous one as well as the present one have appeared and they have produced before this Court the



materials which have now come in course of investigation and supervision.

While hearing this application on the very first day when this Court noticed the submission of learned Senior Counsel on behalf of the petitioner, the Court thought it just and proper to call upon the Investigating Officer to produce the case diary and the report from the experts with respect to the signatures present on the FDs and the bank guarantees in question. The order dated 16.12.2021 recorded by this Court is being reproduced hereunder for a ready reference:-

“Heard Mr. P.K. Shahi, learned senior counsel assisted by Mr. Sanjeev Kumar Singh, learned counsel for the petitioner and Mr. Akshay Lal Pandit, learned A.P.P. for the State.

Petitioner, in the present case, is seeking pre-arrest bail in connection with Kishanganj P.S. Case No. 543 of 2019 registered for the offence under Sections 420, 467, 468, 471, 120(B) of the Indian Penal Code.

The allegations against the petitioner is that in order to help his relative, who was the contractor namely, Gufran Mustakim, the petitioner being the Branch Manager of Indian Bank at Kishanganj had issued FDs/Bank Guarantees total being 14 in numbers



which were forged and not against the value. The said Mustakim died and when the department lodged those Bank Guarantees then it was found that those Bank Guarantees were not issued by the Bank. These Bank Guarantees had been issued during the period the petitioner was posted.

Learned Senior Counsel for the petitioner has submitted that in fact the signature of the petitioner shown on the Bank Guarantees and the FDs are forged signatures, and considering this aspect of the matter, a learned coordinate Bench of this court has granted privilege of anticipatory bail to the petitioner in another case being Kishanganj P.S. Case No.574/2019 in which also some of the Bank Guarantees issued in relation to the said contractor were found forged.

A reading of the order passed by the learned coordinate Bench shows that there a submission was made that the alleged Bank Guarantees has been signed by the two authorities and both signatures have been found to be forged. On query made by this court, however, learned Senior Counsel submits that there is no material as such to support this submission that the signatures of the petitioner was verified by any handwriting expert and/or by any other means in accordance with



law.

Unfortunately the case diary, which, as per office note, is said to have been received by learned A.P.P., is not in the hand of Mr. Akshay Lal Pandit, learned A.P.P.

In the circumstances, this court calls upon the Investigating Officer of this case to be present in-person with the case diary and any other kind of document/report from any expert with respect to the signatures present on the FDs and Bank Guarantees in question.

Mr. Akshay Lal Pandit, learned A.P.P. for the State shall communicate this to the Investigating Officer forthwith.

Let this matter be taken up for consideration on 5th January, 2022 at 2.15 P.M.”

After the said order, when further hearings took place, this Court had to adjourn the matter on 05.01.2022, 14.02.2022, 02.03.2022 and 09.03.2022 for the reasons recorded therein. For the present, those orders are not relevant in order to finally dispose of this case.

The Superintendent of Police, Kishanganj has informed this Court that in the present case the signatures present on the bank guarantees have been verified with the specimen signature of the petitioner. The opinion of Police



Laboratory, CID, Bihar has been placed before this Court. The CID Laboratory has recorded in its report that on several points there are similarities in the signatures marked 'X' to 'X2' with the specimen short signatures marked 'A' to 'A4'. The similarities are mentioned under sub-paragraph (1) to (10) of paragraph 'd'.

In the further part of the report, the three dissimilarities have also been noted and final opinion has been recorded that "although there are found some characteristic similarities between the disputed short signatures marked 'X' to 'X2' and specimen short signatures marked 'A' to 'A4' Hence for want of sufficient suitable individualities no definite opinion is possible."

Learned Senior Counsel for the petitioner has submitted that the opinion of the CID Laboratory has recorded at least some dissimilarities and, therefore, in the given facts and circumstances of the case, the petitioner deserves privilege of anticipatory bail.

On the other hand, Mr. Akshay Lal Pandit, learned APP for the State has opposed the prayer for anticipatory bail of the petitioner. Mr. Akshay Lal Pandit, learned APP for the State has on instruction from the Superintendent of Police,



Kishanganj submits that considering the involvement of huge public money in the bank guarantees and that the petitioner being the Bank Manager under whose signature the bank guarantees have been issued, his custodial interrogation may be required, therefore, he does not deserve privilege of anticipatory bail.

At this stage, this Court has been further informed that apart from the present case, the petitioner is an accused in two other cases of similar nature involving same contractor, those are Kishanganj P.S. Case No. 574 of 2019 and 103 of 2019. In paragraph '3' of the present application, however, the petitioner has disclosed only one criminal antecedent i.e. Kishanganj P.S. Case No. 574 of 2019 but he has not disclosed Kishanganj P.S. Case No. 103 of 2019 which is also under investigation. It is, thus, submitted that he has not come fairly before this Court and has concealed his criminal antecedent.

Learned Senior Counsel for the petitioner, however, submits that the criminal antecedent has been recorded as per instruction of the pairvikar namely Md. Furquan Alam, son of Md. Nayar Alam, resident of mohalla Kelabari, Machhaila, P.S. Mahalgaon District-Araria who is cousin of the petitioner.

Having heard learned Senior Counsel for the



petitioner, learned A.P.P. for the State and the Superintendent of Police, Kishanganj as also the Investigating Officer, this Court has noticed that in this case the contractor Gufran Mustakim is said to have submitted forged bank guarantees which were allegedly issued by this petitioner who happens to be a relative of the petitioner and this Court has been informed by the I.O. that the said contractor and the petitioner are residing in the same Mohalla also. Therefore, they were known to each other.

This Court has noticed on the strength of the forged bank guarantees the work contracts of huge amount were obtained which could not be completed due to death of the contractor.

This Court has been informed that two other cases of similar nature are being investigated against the petitioner. Finding that this case involves huge public money and it is the stand of the State on instruction from the Superintendent of Police, Kishanganj that custodial interrogation of the petitioner may be required, this Court is not inclined to grant privilege of anticipatory bail to the petitioner. The prayer is, thus, refused. This application is dismissed.

It is for the Investigating Agency to take a view on the custodial interrogation of the petitioner if required and proceed



with the same in accordance with law.

Having said so, this Court would call upon the deponent of the affidavit to show cause as to why an appropriate proceeding be not initiated against him for not disclosing the true and correct facts with regard to the criminal antecedent of the petitioner.

Let such show cause be filed within three weeks from today.

The show cause shall be listed for consideration under heading “For Orders” after three weeks i.e. on 20th of April, 2022.

Personal appearance of the Superintendent of Police, Kishanganj, Investigating Officers of the case and the informant is dispensed with.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

