

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72235 of 2021**

Arising Out of PS. Case No.-851 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

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SANTOSH KUMAR Son of Ramanand Prasad Resident of Near IDBI Bank
Kurthaul, P.S.- Parsa Bazar, District- Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prince Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Md. Ataur Rahman, A.P.P.

For the Complainant : Mr. Rajesh Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 12-09-2022 Heard learned counsel for the petitioner, the
complainant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period
of four weeks.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 420, 409,
467, 468, 471 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and is a practicing
Chartered Accountant.

The complainant alleges that without giving him any
intimation, the accused persons Atish Kumar and Ajay Kumar in
connivance of the petitioner made Ajay Kumar as Director of
the company by creating forged and fabricated documents. It is



alleged that the accused persons are creating obstruction in running the company and they want to oust the complainant from the company. It is alleged that the bank has given notice to the accused persons but they have not given any reply to the bank. The complainant further alleges that the accused persons intended to take the share of his father, hence, he wanted to settle the issue and went to meet the accused persons at their rice mill but the accused persons abused him and thereafter the matter was reported to the police. It is alleged that the accused persons by misusing their positions as Director obtained forged and fabricated documents and misappropriated the stock of the company, stored in the premises of the rice mill.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case and as far as this petitioner is concerned, he is alleged to have connived with the accused persons and, thus, created forged and fabricated resolution of the Board of Directors and helped accused Ajay Kumar in getting appointed as Director of the company. Learned counsel submits that if the complainant is aggrieved by the fact that Ajay Kumar has been made a Director of the company based on forged and fabricated documents then the complainant has remedy of approaching the NCLT under



Section 169 of the Companies Act, 2013 where the issue can be adjudicated upon. He further submits that the complainant has also approached the ROC and has filed a complaint in which notices have been issued to the accused persons including the petitioner. He next submits that as far as allegation of creating forged and fabricated document for helping Ajay Kumar as getting appointed as Director of the Company is alleged, the same stands falsified in view of the cognizance taken by the learned trial court as cognizance is taken only under Section 420 of the Indian Penal Code. He, thus, submits that prima facie no offence under Section 420 of the Indian Penal Code is made out as the parties are disputing that Ajay Kumar was made Director of the company based on forged and fabricated document whereas the case of the accused persons is that Ajay Kumar was made Director of the company in accordance with the provision of the Companies Act and if the complainant disputed the said fact then he has the remedy as aforesaid.

Learned A.P.P. for the State and learned counsel for the complainant opposed the prayer for anticipatory bail of the petitioner. Learned counsel for the complainant submits that presently he is not in a position to rebut the submission of the learned counsel for the petitioner that the learned trial court after



applying the judicial mind has not found prima facie case under Sections 467, 468 and 471 of the Indian Penal Code rather has found the case to be true under Section 420 of the Indian Penal Code which the learned counsel for the petitioner rebuts as aforesaid.

Considering the submissions made by the learned counsel for the petitioner, the provisional bail granted to the petitioner by order dated 08.07.2022 is hereby confirmed in connection with Complaint Case No. 851(C) of 2020 pending in the Court of learned Judicial Magistrate, 1st Class, Danapur/ successor Court.

(Satyavrat Verma, J)

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