

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2287 of 2019

Arising Out of PS. Case No.-327 Year-2017 Thana- CIVIL LINE District- Gaya

Triveni Prasad @ Triveni Prasad Singh, male, aged about 63 years, Late Nivas Singh, resident of Village- Itnam, Post office- Karu, Police Station- Karakat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food and Civil Supply Corporation, Gaya, Bihar.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 74128 of 2018

Arising Out of PS. Case No.-327 Year-2017 Thana- CIVIL LINE District- Gaya

Santosh Kumar Jha, aged about 53 years, Son of Ram Narayan Jha, resident of Village- Titra Ashanand, Post Office- Titra Ashanand Dholi (Morauli), D.A. College, P.S.- Sakra, Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. District Manager, Bihar State Food and Civil Supply Corporation, Gaya.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 2287 of 2019)

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.



For the State : Mr. Parmeshwar Mehta, APP
For the BSFC : Mr. Shailendra Kumar Singh, Adv.
Mr. Utkarsh Utpal, Adv.
(In CRIMINAL MISCELLANEOUS No. 74128 of 2018)
For the Petitioner/s : Mr. Sanjeet Kumar, Adv.
For the State : Mr. Parmeshwar Mehta, APP
For the BSFC : Mr. Shailendra Kumar Singh, Adv.
Mr. Utkarsh Utpal, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

22 12-10-2022 Both the bail applications have been heard together and are being disposed off by this common order.

Heard the learned counsel for the parties.

The petitioners seek bail in anticipation of their arrest in connection with Civil Lines P.S. Case No. 327 of 2017, dated 02.08.2017, instituted for the offences under Sections 467, 406, 409, 120-B and 34 of the Indian Penal Code.

The subject F.I.R. has been lodged because of the mismatch in the register with respect to gunny bags/bales, which fact was discovered in the audit report of the accounts of the BSFC for the period 2011 – 2014.



The check period with which the petitioners are concerned undisputedly is 2014 – 2016.

While hearing both these applications on an earlier occasion, this Court had observed on 15.12.2021 that for all this while since 2017, the investigation has remained pending.

Mr. Parmeshwar Mehta, the learned counsel for the State has stated today that the investigation has yet not been completed.

Mr. P.K. Shahi and Mr. N.K. Agrawal, the learned Senior Advocates appearing for the petitioners have stated that while recording the F.I.R. and other documents which form part of the F.I.R., certain vehicle numbers have been noted which were found to be not of any transportation vehicles, but motorcycles and cars. Those vehicle numbers have been used for the period 2011 – 2014. So far as the vehicles used between 2014 – 2016 are concerned, only one of the vehicles was found to be a three-wheeler/auto.



It is the contention of both the petitioners that in fact in their period apart from the other vehicles which were found to be transportation vehicles, one vehicle by the registration No. JH-02M-7406 was used about which there is no reference of such registration number being of any other vehicle except transportation vehicle. In the investigation report as also in the F.I.R., there is a reference of one vehicle by the registration No. JH-02M-4406, which is stated to be *Bajaj Auto*.

Both the learned counsel for the parties have clearly stated that this number was wrongly picked-up and the vehicles used during the period when the petitioners were in-charge were not found to be other than transportation vehicles.

There appears to be some confusion with respect to registration Nos. JH-02M-7406 and JH-02M-4406.

It has further been submitted that it is really not understandable as to why such a longtime has been



taken by the investigating agency to conclude the investigation, which primarily revolved around the facts which were discovered during the audit report for the period 2011 – 2014.

So far as the petitioners are concerned, their responsibility lay for transportation during the period 2014 – 2016 for which there is reference of only one vehicle which is not a transportation vehicle.

It has additionally been argued by both the counsel that out of several vehicles, even if one is accepted to be a non-transportation vehicle, that does not make the action of the petitioner suspect in the eyes of law.

Precisely for this reason, sometimes in the year 2019, one Harendra Nath Dubey was granted anticipatory bail by a Bench of this Court *vide* order dated 26.06.2019 passed in Cr. Misc. No. 59432 of 2018.

In the aforesaid case also, the number of a



vehicle was reported to have been found of a non-transportation vehicle, which, ultimately, was found to be incorrect because of the wrong registration number having been verified.

Similar is the case of the petitioners.

On 15.12.2021, this Court had also noted the submission of the counsel for the BSFC that two of the bail applications of other employees of the BSFC was pending before another Court and this Court, therefore, awaited the result of the aforesaid applications.

Mr. Shailendra Kumar Singh, the learned counsel for the BSFC has produced before this Court the order passed in the aforesaid two applications, namely, Cr. Misc. No. 59640 of 2018 (*Om Prakash Vs. The State of Bihar*) and Cr. Misc. No. 75860 of 2018 (*Dhirendra Kumar Verma Vs. The State of Bihar & Anr.*).

By order dated 06.09.2022, a Bench of this Court has rejected the applications of anticipatory bail of



the afore-noted accused persons/petitioners. While rejecting such applications, the Bench has noted the numbers of the vehicles which were found to be non-transportation vehicles. Precisely for this reason, the Court was of the view that the petitioners therein were hands in glove with the officials of the BSFC and in a deep-rooted conspiracy, misappropriated the government money for their personal gain and without connivance with each other, such a scam was not possible.

The cases of the petitioners in hand is absolutely different so far as the vehicle numbers are concerned.

Those two persons were responsible for the transportation during the period 2011 – 2014, whereas the petitioners are concerned with the check period of 2014 – 2016 during which only one vehicle was found to be non-transportation vehicle. With respect to that also, it may be reiterated, wrong registration number was verified.



This further gets support from the counter affidavit filed by opposite party No. 2, wherein a vehicle with almost similar registration number has been shown to have been used which is a transportation vehicle.

There could be some confusion with respect to one vehicle because of the registration number being somewhat similar.

Be that as it may, considering the facts afore-noted, namely, that the investigation has been continuing since 2017 and has not yet been completed; except for the statement in the F.I.R. and finding of one vehicle used during the check period of 2014 – 2016 not being a transportation vehicle, which number also has been doubted by the petitioners and under similar circumstances one of the accused persons (*Harendra Nath Dubey*) has been granted anticipatory bail earlier on 26.06.2019, this Court is satisfied that the petitioners deserve the privilege of anticipatory bail, notwithstanding the fact that the anticipatory bail



applications of two of the other accused persons have been rejected by a co-ordinate Bench of this Court *vide* order date 06.09.2022 passed in Cr. Misc. Nos. 59640 of 2018 and 75860 of 2018 respectively.

It may again be noted that the cases of those two accused persons (*Om Prakash and Dharendra Kumar Verma*) are different from the cases of these petitioners.

There is a parity between the cases of the petitioners and aforesaid Harendra Nath Dubey, who has been granted anticipatory bail *vide* order dated 26.06.2019 (*Cr. Misc. No. 59432 of 2018*).

The petitioners, thus, are directed to be released on anticipatory bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks, on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Gaya in connection with Civil Lines P.S. Case No. 327 of 2017, subject to



the conditions laid down under Section 438(2) of the Cr.P.C. with further condition that they shall make themselves available for any further investigation and in the event of the case going to trial, the petitioners shall participate in the same. The petitioners shall not leave the territorial confines of the country without informing the I.O./Officer-in-Charge of the concerned police station till the time the investigation remains pending and the Court, once the case goes to trial.

With the aforesaid observation/direction, both the applications stand allowed.

(Ashutosh Kumar, J)

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