

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47952 of 2022

Arising Out of PS. Case No.-4 Year-2014 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

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Birendra Prasad, S/O Late Rambriksha Sah, Resident of House No.- 8,
Bibiganj, Danapur Thana More, P.O. and P.S.- Danapur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Economic Offence Unit Through The IG, Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr.Nitesh Kumar, Advocate Mr. Sumit Kumar, Advocate
For the State	:	Mr.Nirmal Kumar Sinha, APP
For the E.O.U.	:	Mr. Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 03-11-2023 Heard Mr. Baxi S.R.P. Sinha, learned senior counsel

assisted by Mr. Nitesh Kumar, learned counsel for the petitioner,

Mr. Nirmal Kumar Sinha, learned APP for the State and Mr.

Vijay Anand, learned counsel for the Economic Offence Unit

(hereinafter referred to as the 'E.O.U.').

2. The petitioner, in the present case, is seeking pre-arrest bail in connection with Special Case No.14 of 2014 arising out of Economic Offence Unit P.S. Case No.4 of 2014 registered for the offences punishable under Sections 109 and 120B of the Indian Penal Code and Sections 13(2) and 13(1)(e) of the Prevention of Corruption Act. The petitioner has got no

criminal antecedent.

3. As per the prosecution story, the informant alleged that the co-accused Kanhaiya Kumar being Assistant Director, Information and Public Relations Officer is having disproportionate assets to his known sources of income, concerning which his income has been calculated during the said period between 30.02.2002 to 31.12.2023 to the tune of Rs.1,19,96,650/-. Allegedly, this petitioner has given account payee cheques of Rs.2,00,000/- to the co-accused Kanhaiya Kumar in order to make his black money white.

4. Learned senior counsel for the petitioner submits that the petitioner was posted as a clerk under Kanhaiya Kumar who is the main accused of the present case. It is submitted that the petitioner was not at all aware of the alleged illegal act of the accused Kanhaiya Kumar and this petitioner has made a statement that he had issued three cheques of Rs.50,000/-, Rs.50,000/- and Rs.1,00,000/- to said Kanhaiya Kumar on his request saying that he required money for purpose of admission of his child. The submission is that the amount was provided to the co-accused Kanhaiya Kumar in good faith being subordinate to him.

5. Learned senior counsel further submits that

identical allegations were made against co-accused, namely, Mohan Thakur, Brijnandan Prasad @ Brijnandan Prasad Sinha and Bijendra Prasad as also one Ashok Prasad who have been granted privilege of anticipatory bail by this Court in Cr. Misc. Nos. 58061 of 2018, 67302 of 2018 and 2533 of 2019 vide orders copies of which have been enclosed as Annexure- '3' series.

6. Learned senior counsel has produced copies of the orders passed by learned coordinate Benches of this Court in Cr. Misc. No. 61085 of 2022, Cr. Misc. No. 29774 of 2023 and Cr. Misc. No. 72759 of 2022 whereby and whereunder the co-accused of this case who are similarly situated have been granted privilege of anticipatory bail.

7. A counter affidavit has been filed on behalf of the E.O.U. Mr. Vijay Anand, learned counsel for the E.O.U. submits that in fact this petitioner had given Rs.3,00,000/- to the accused Kanhaiya Kumar who was then posted as Assistant Director of Information and Public Relations Department, Bihar. It is not disputed by learned counsel for the E.O.U. that some other employees who are similarly situated with the present petitioners were also made non-FIR named accused on the same allegations and they have been granted privilege of anticipatory

bail by learned coordinate Benches of this Court. No distinction could be made out between the case of the present petitioner and that of those who have been granted privilege of anticipatory bail.

8. In the given facts and circumstances of the case and in order to maintain uniformity in justice, this Court directs that in case of his arrest/surrender within a period of six weeks from today, let the petitioner above-named be enlarged on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance 1st, Patna in connection with Special Case No.14 of 2014 arising out of Economic Offence Unit P.S. Case No. 4 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

9. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

10. If the petitioner does not cooperate with the investigation, it will be open for the E.O.U. to file an appropriate application seeking cancellation of bail of the petitioner.

11. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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