

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61869 of 2022

Arising Out of PS. Case No.-1558 Year-2021 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Srikant Chauhan Son Of Sri Ram Subhag Chauhan Sub-Inspector of Police,
P.S.- Jagdishpur (Presently Working Police Line, Bhagalpur), Distt.-
Bhagalpur, Permanent Add.- R/V- Dharahara, P.S.- Paliganj, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Syed Mojibur Rahman, APP
For the complainant	:	Mr. Rajendra Narayan, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 03-07-2023 Heard learned counsel for the petitioner, learned

Senior counsel for the complainant and learned A.P.P. for the

State.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 466, 216,
166A, 120(B) and 29 of the Indian Police Act read with Section
466 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent and is Station House
Officer of Jagdishpur PS and the complainant alleges that his
father approached the SHO, Jagdishpur (petitioner) with an
allegation that accused persons had cheated him of Rs. 62 lakhs



but no FIR was instituted, thereafter the complainant moved the learned trial court by filing Complaint Petition No. 432 of 2020 in the court of learned ACJM-VII, Bhagalpur, it is next alleged that learned ACJM-VII issued bailable warrant of arrest against the accused persons to be executed through Mojahidpur PS by order dated 13.11.2020 but the warrant was not executed thereafter a show-cause was issued by the learned court requiring the SHO, Mojahidpur to furnish his explanation, accordingly the SHO, Mojahidpur returned the warrant unexecuted, meanwhile the anticipatory bail application of the accused was rejected by the learned District Judge *vide* order dated 17.02.2021. It is next alleged that on 12.04.2021, the accused persons of complaint case filed Cr. Revision No. 10 of 2021 against the order dated 12.04.2020 by which they were summoned, thereafter the accused persons moved before the court of learned ACJM-VII with a prayer to adjourn the complaint case till disposal of Cr. Revision No. 10 of 2021 but the said prayer of the accused persons was rejected and thereafter non-bailable warrant of arrest was issued on 13.04.2021. It has been further alleged that the prayer of the accused persons with regard to adjourning the criminal revision was rejected on the ground that criminal revision application



was filed without supplying the copy of the petition to the complainant, it is next alleged that though non-bailable warrant was issued on 13.04.2021 but the same was not executed and the complainant brought the said fact orally to the notice of the SP, Bhagalpur and on his instruction met the SHO, Mojahidpur who disclosed that warrant has been returned unexecuted *vide* DB No. 689/2021 dated 01.06.2021, when in fact the warrant was returned *vide* DB No. 689 of 2021 dated 06.10.2021, thus the complainant alleges that petitioner is hand in glove with the accused persons and is involved in sale of purchase of land with them and thus protects accused nos. 2 to 7.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that from bare perusal of the allegations as alleged in the complaint it would manifest that the complainant has alleged that her father had approached the petitioner for instituting an FIR against the accused persons of the present complaint case alleging that they had cheated his father of Rs. 62 lakhs and when the FIR was not instituted, the present complaint case came to be filed. Learned counsel next submits that from perusal of the allegations it would manifest that the cause of action had arisen within the police station of



Mojahidpur, it is further submitted that even from perusal of the complaint petition it would manifest that the cause of action had arisen within the Mojahidpur PS hence there was absolutely no occasion for the father of the complainant to approach the petitioner for instituting an FIR within the jurisdiction of Jagdishpur PS. It is next submitted that the warrant of arrest both bailable and non-bailable which were issued by the learned court of ACJM-VII, Bhagalpur were to be executed by the Officer-In-Charge of Mojahidpur PS and it was his inaction which helped the accused persons in getting anticipatory bail from this Court. Learned counsel thus submits that the petitioner has been falsely implicated in the present case with an allegation that he refused to institute an FIR based on the allegation of the father of the complainant when it is the case of the petitioner that he was never approached by the father of the complainant to institute an FIR or else he would have instituted a zero FIR.

Learned A.P.P. for the State and the learned Senior counsel for the complainant oppose the prayer for anticipatory bail of the petitioner but are not in a position to rebut the submissions of the learned counsel for the petitioner that the entire allegation hinges against the SHO of Mojahidpur PS and the only allegation against the petitioner is of being in hand in



glove with the accused persons of the complaint case but then the allegations are in realm of allegations.

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 Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Complaint Case No. 1558(c) 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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