

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60464 of 2022

Arising Out of PS. Case No.-127 Year-2020 Thana- DHURAIYA District- Banka

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KALI KINKAR YADAV S/o Chaturbhuj Prasad Yadav @Chaturbhuj Yadav
R/o Village- Ogari P.S.- Kahalgaon, Distt- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Saket Anand, Adv

For the Opposite Party/s : Mr.Uday Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks' from today.

Heard Mr. Saket Anand, learned counsel appearing on behalf of the petitioner and Mr. Uday Pratap Singh, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in connection with **Dhuraiya P.S. Case No. 127 of 2020** registered for the offences punishable under Sections 409 and 420 of the Indian Penal Code.

The prosecution case is based on the written report of the Informant, In-charge Principal of SDYM, College. It is alleged that with regard to the misappropriation of assets of College, an inquiry was conducted by the Committee and it was



found that petitioner has embezzelled and misappropriated Government fund of Rs. 5,51,050/- and also took away the cash-book and money receipt. It has also come during the course of enquiry that the petitioner had been indulged in distributing fake C.L.C, Character Certificate etc.

Learned counsel appearing on behalf of petitioner submits that this petitioner had also filed a complaint case being Case No. 652 (C) of 2020 against the Informant and other accused persons alleging their involvement in other irregularities, however prior to the institution of the present case there has never been any complaint whatsoever against the petitioner but only on account of some conspiracy hatched by the Informant and other rival groups, petitioner has been made accused in order to harass at the hands of the Informant and his persons. He next submits that petitioner has been allowed to superannuate unconditionally from the post of Principal of the College in question and there had never been any charge of misappropriation apart from the fact that he is a man of fair antecedent aged about 62 years and is in custody since 26.04.2021. He further submits that now charges have already been framed and the instant case is at the stage of prosecution evidence but there is no substantive progress. Petitioner is ready



to give an undertaking that he will remain present on each and every date of trial.

On the other hand, learned counsel for the State opposing the bail application submits that release of petitioner would hamper the trial.

Regard being had to the submissions made on behalf of the parties and considering the fact that petitioner had been allowed to superannuate unconditionally after completing his age of superannuation without there being any departmental proceeding and moreover, he is in custody since 26.04.2021 and the charges have already been framed, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned **Judicial Magistrate First Class, Banka**, in connection with **Dhuraiya P.S. Case No. 127 of 2020**, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.



(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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