

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1141 of 2016

Arising Out of PS. Case No.-107 Year-2016 Thana- VAISHALI District- Vaishali

Smt Poonam Kumari Wife of Rajesh Kumar Chaudhary Resident of Village-
Madarna, P.S. and District-Vaishali at Hajipur

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sri Sanjay Kumar Son of (Late) Kailash Prasad, at Present Posted as Block Welfare Officer, Vaishali

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukul Sinha
For the State	:	Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 13 18-09-2023 1. Heard Mr. Mukul Sinha, learned counsel for the petitioner.
2. The present revision application has been filed against order, dated 30.09.2016, passed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur in ABP No. 1892 of 2016, to the extent that while granting anticipatory bail, learned Additional District and Sessions Judge VI, Vaishali, has imposed further condition that the petitioner would pay the entire honorarium received by her during the period she was employed as Vikas Mitra in the Gram Panchayat, Madarna.
3. The relevant fact involved in this case is that the petitioner is made accused in Vaishali Town Police



Station Case No. 107 of 2016, dated 15.05.2016, under Sections 420/409/467/468/471/477(A)/120(B) of the Indian Penal Code and on the basis of the allegation, the petitioner, along with her husband, namely, Rajesh Kumar Choudhary, obtained a forged residential certificate after advertisement for selection as Vikas Mitra and has knowingly used the certificate for obtaining employment as Vikas Mitra.

4. It is not disputed that the anticipatory bail has been granted to the petitioner in ABP No. 1892 of 2016, dated 30.09.2016, on a bail bond of Rs. 10,000/- with further condition that the petitioner be released upon surrender, after the husband of the petitioner surrenders himself in the concerned court, and she would also deposit the entire honorarium amount which she earned as Vikas Mitra and mobile phone received by her.
5. Learned counsel for the petitioner submits that in so far as the condition regarding surrender of petitioner's husband, he has been granted anticipatory bail by the competent court in ABP No. 2045 of 2016, dated 15.11.2016.
6. Learned counsel further submits that additional condition imposed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur, while granting the anticipatory bail is onerous and is not sustainable in law.



7. Learned counsel, next, submits that the petitioner remained in service for about three years. She was appointed pursuant to proper advertisement, interview and selection committee's report. The services of the petitioner had been terminated by the District Magistrate, Vaishali by order, dated 15.03.2016, on the ground that advertisement was published on 16.03.2012, but the residential certificate submitted by the petitioner was issued on 09.04.2012 i.e. after publication of advertisement.
8. This Court, *vide* interim order, dated 18.01.2017, arrived at *prima facie* finding that the condition, imposed by the learned Additional District and Sessions Judge VI, Vaishali at Hajipur, for grant of anticipatory bail was onerous and that no coercive steps shall be taken against the petitioner and the petitioner shall not be taken into custody by the police during pendency of this application.
9. Further, by order, dated 17.03.2023, a bench of this Court called for a report regarding the petitioner having been surrendered and obtained anticipatory bail without complying with the bail condition and in pursuance thereof, the report has been submitted by learned Chief Judicial Magistrate, Vaishali at Hajipur, stating therein that the petitioner has not yet surrendered pursuant to the



order passed in ABP No. 1892 of 2016.

10. Learned counsel further submits that the petitioner had challenged the order of termination passed by District Magistrate, Vaishali at Hajipur in Civil Writ Jurisdiction Case No. 8557 of 2016, which has been disposed by this Court, *vide* order, dated 14.03.2019, and the matter was remanded before learned District Magistrate, Vaishali for re-examination.
11. Lastly, learned counsel submits that the petitioner was *bona fide* appointee, who received honorarium amount of Rs. 5000/- per month and while terminating the services of the petitioner as Vikas Mitra, no order for recovery of entire honorarium amount and mobile phone has been passed by learned District Magistrate, Vaishali at Hajipur.
12. No one appears on behalf of the opposite party no. 2.
13. Learned counsel for the State submits that the condition imposed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur for granting anticipatory bail is reasonable.
14. I have heard learned counsel for the petitioner and learned counsel appearing for the State.
15. Upon bare perusal of the allegation and the order passed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur, it transpires that the services of the



petitioner was terminated on the ground that she did not produce the relevant certificates prepared before the date of advertisement and has submitted the certificates, which were prepared post advertisement.

16. Learned District Magistrate, Vaishali at Hajipur, while passing the order of termination has not passed any order of recovery of entire honorarium amount and mobile phone received by the petitioner. Accordingly, in my opinion the additional condition imposed upon the petitioner that she would deposit the entire honorarium amount and mobile phone as a condition for bail is nothing but onerous condition.
17. The Supreme Court, in **Special Leave to Appeal (Crl.) Nos. 8498 of 2022 (Divya Bharti v. The State of Bihar)**, dated 14.11.2022, has held that imposing additional condition of recovery of amount drawn as salary by Panchayat Teacher is neither justified nor sustainable in law while granting anticipatory bail.
18. Consequently, the additional condition imposed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur, in impugned order for grant of anticipatory bail in ABP No. 1892 of 2016, dated 30.09.2016, wherein the petitioner is required to return the entire honorarium amount and mobile phone, is set



aside.

19. It is made clear that the order, granting anticipatory bail to the petitioner, shall operate and this Court has only set aside the additional condition imposed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur, in the impugned order, dated 30.09.2016.
20. In the result, the impugned order passed by learned Additional District and Sessions Judge VI, Vaishali at Hajipur in ABP No. 1892 of 2016, dated 30.09.2016, is modified and the petitioner, namely, Smt. Poonam Kumari, is directed to surrender before the concerned court within a period of four weeks for furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of Chief Judicial Magistrate, Vaishali at Hajipur, in connection with Vaishali Town Police Station Case No. 107 of 2016.
21. This revision application is allowed to the extent as aforesaid.

(Anil Kumar Sinha, J)

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