

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69719 of 2023

Arising Out of PS. Case No.-248 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

Pankaj Kumar Mishra, Son of Ugradev Mishra, R/o House no. 1, vill- Gosani,
P.O. - Mukunpur, P.S. - Gopalpur, Distt. - Bhagalpur, the then Clerk posted in
the office of District Education Officer, Begusarai, Presently residing at ward
no. 20 care of Sohan Chaudhary, Jai Prakash Nagar, P.S. and Distt. - Khagaria
... .. Petitioner/s

Versus

The State of Bihar through Vigilance Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate

For the Opposite Party/s : Mr. Arvind Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-11-2023 Heard Mr. Pranav Kumar Jha, learned counsel

appearing on behalf of the petitioner and the learned counsel
representing the Vigilance Investigation Bureau.

2. The petitioner is apprehending his arrest in
connection with Special Case (Vigilance) No. 07 of 2021,
arising out of Begusarai Town P.S. Case No. 248 of 2021,
registered for the offences punishable under Sections 419, 420
of the Indian Penal Code and Section 13(d) of the Prevention of
Corruption Act, 1988.

3. The allegation against the petitioner is of
irregularity and theft of the official records in the year 2011, the
present F.I.R. has been instituted in the year 2021 by the District
Education Officer, Begusarai, pursuant to the direction of the
learned Lokayukta, Bihar, Patna.



4. It is submitted on behalf of the petitioner that admittedly in the year 2011 on a complaint made by some social worker, a departmental proceeding has been initiated against the petitioner and he was appropriately inflicted with punishment of reduction of salary. However, despite the matter having come to an end and after the superannuation of the petitioner, a direction has been given by the learned Lokayukta to institute an F.I.R. contrary to the mandate of this Court in C.W.J.C. No. 18053 of 2019 (**Bipin Bihar Singh Vs. The State of Bihar and Others**) **reported in 2020 (3) PLJR 10** holding that the Lokayukta has no jurisdiction to direct the authority to institute an F.I.R. against an employee. He further drew the attention of this Court to the F.I.R., especially the report dated 18.02.2021, suggesting that the direction of the learned Lokayukta is based upon no enquiry report and on the basis thereof the F.I.R. could not be instituted. However, on a subsequent direction issued by the learned Lokayukta, this F.I.R. has been instituted. He lastly submits that the petitioner is a retired government employee, having fair antecedent, and he undertakes that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned counsel for the Vigilance opposes the bail application and submits that the



complicity of the petitioner cannot be denied, as in a departmental proceeding he has been inflicted with punishment.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged occurrence, which took place in the year 2011, the present F.I.R. has been instituted in the year 2021, coupled with the mandate of law and the fair antecedent, let the petitioner, named above, in the event of his arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-V-cum-Special Judge (Vigilance), Bhagalpur in connection with Special Case (Vigilance) No. 07 of 2021, arising out of Begusarai Town P.S. Case No. 248 of 2021, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioner.

(Harish Kumar, J)

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