

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8330 of 2023**

Arising Out of PS. Case No.-50 Year-2022 Thana- DARBHANGA SADAR District-
Darbhanga

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DULARE CHOUDHARY S/o Late Ram Prasad Choudhary Resident Of
Village- Rashalpur Ward No 05 P.S.- Simri, Distt- Darbhanga. At present
posted as Panchayat Sahchiv, Sadar Prakhand, Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Veena Kumari Jaiswal, Adv

For the Opposite Party/s : Mr. Dilip Kumar No.1, APP

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

6 20-07-2023

Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The petitioner apprehends his arrest in connection with
Darbhanga Sadar P.S. Case No.50 of 2022, registered for the
offences punishable under Sections 420, 467, 468, 471, 409,
34 of the Indian Penal Code, pending before the Court of
learned Chief Judicial Magistrate, Darbhanga.

3. The prosecution case, arising out of a typed report of
Block Development Officer, Sadar, Darbhanga vide letter no.
147 dated 28-01-2022 in pursuance of a memo issued by the
District Magistrate, in brief, is that several irregularities were
found to have been committed by the accused persons in the



appointment of panchayat teachers in the year 2016 and 2021 within gram panchayat Raj Kabirchak. It has been alleged that the petitioner in collusion with other co-accused persons, got appointed 09 panchayat teachers in the year 2016 and 2021, concealing the fact that panchayat teachers had already been appointed earlier but the vacancy was not in existence. Moreover, the panchayat teachers were appointed when code of conduct was in vogue owing to panchayat elections. An enquiry was conducted under the chairmanship of Deputy Development Commissioner. The enquiry report submitted by the committee indicated involvement of petitioner in the irregularities in the appointment of panchayat teachers.

4. Learned Counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence. The Block Development Officer without knowing the fact of his order of appointment has wrongly and illegally lodged the FIR against the petitioner and others and made false and incorrect statement in the F.I.R. Petitioner was posted as Panchayat Secretary in Kabrpur Gram Panchayat Raj in the district of Darbhanga and he has appointed nine Niyोजे Teachers in compliance of order dated 10.08.2019 passed by the District Teacher Appointment Appellate Authority, Darbhanga in case



no.07 of 2018. He further submits that the petitioner had no option but to comply the order of the learned Presiding Officer District Teacher Appointment Appellate Authority, Darbhanga and as accordingly, the petitioner appointed the said nine Niyojeet Teachers, hence the petitioner has not committed any offence. It is further submitted that with the similar allegation of offence in respect of appointment of 16 Niyojeet Teachers including the nine teachers appointed by the petitioner and F.I.R was lodged by the B.D.O., Darbhanga, against the present petitioner and other co-accused persons and the petitioner has been granted anticipatory bail by the learned Sessions Judge, Darbhanga in aforesaid Darbhanga Sadar P.S. Case No.281 of 2021.

5. He further submits that the Block Development Officer, Darbhanga Sadar before lodging the present case against the petitioner and others has not issued any notice to the petitioner regarding appointment of 9 Niyojeet Teachers, which shows the malafide intention and malafide action of the B.D.O. It is submitted that one of the Panchayat Secretary, who was posted in Kabirchak Gram Panchayat Raj prior to the petitioner was also made accused in the FIR lodged by the Block Development Officer, Sadar Darbhanga regarding



appointment of Niyojit Teachers illegally and also has been granted anticipatory bail by this Hon'ble Court vide order dated 08.02.2023 in Cr. Misc No.1400 of 2023. The petitioner joined Kabirchak Gram Panchayat Raj as a Panchayat Secretary on 01.07.2016 and submitted his joining report in the Sadar Prakhanda on 01.07.2016 and the said Secretary, Sri Ram Dinesh Rai who handed over part charge on 15.07.2016 and no any document was handed over to the petitioner in the charge report handed over by Panchayat Secretary, the then Panchayat Secretary and as such the petitioner had no knowledge about appointment of the teachers and the vacancies available before taking his charge if any teacher was appointed, it was appointed by the then Secretary of the said Gram Panchayat. Petitioner has three criminal antecedents, mentioned in para-3 of the bail application.

6. Learned counsel for the State opposed the prayer for grant of anticipatory bail and submits that during the investigation done by three men committee found that in Panchayat Kabirchak, the process of appointment of Niyojit Shikshak was started in the year 2008 but the appointment letters were issued in the year 2016 which is apparently illegal. After perusal of counselling register and rectified merit



list it is evident that in counselling register at Sl. No.31 name of Farhan Tabsum is mentioned but in rectified merit list at Sl. No.31, name of Vandana Kumari is mentioned. The names of candidates mentioned in serial number are not available in that serial number in counselling register or names are not found in the said register. Thereafter the appointments were made in the year 2019 and 2021 on that 09 vacant post which was filled up in year 2008.

7. It is further submitted that Panchayat Secretary, Panchayat Raj Kabirchak, has been issued a letter bearing memo no.26 dated 09.11.2019 in which reference of letter BRC/434 dated 28.10.2019 of Block Education Officer, Darbhanga Sadar has been mentioned which is not issued from the office of B.E.O. Sadar Darbhanga which shows that the petitioner is involved in doing illegal appointment of Niyojeet Shikshak in 2009 and 2021. It is further stated that the petitioner was posted as Panchayat Sachiv in Kabirchak and Balha Panchayat (Darbhanga) and allegations that after concealment of facts (only nine posts were vacant) the appointments were made to the post of Niyojeet Shikshak was/is 18 in number without any sanction post in the year 2019 and 2021 which is apparently illegal.



8. Having regards to the facts and circumstances of the case as well as considering the arguments advanced on behalf of the parties and from the perusal of the counter-affidavit filed by the learned counsel for the State, it is clear that there is ample evidence against the petitioner to support the prosecution case, therefore, I am not inclined to enlarge the petitioner on bail. The prayer for grant of bail on his behalf is hereby rejected.

9. This application is, accordingly, dismissed.

(Anjani Kumar Sharan, J)

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