

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27844 of 2024

Arising Out of PS. Case No.-22 Year-2019 Thana- SONPUR RAIL P.S. District- Saran

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Anil Kumar Son of Late Janak Sharma Village Haripur Krishna PS Sakra District Muzaffarpur. (Petitioner retired from the post which he was holding at the time of occurrence was SSE/P-Way-Shahpur Patori)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Adv

Mr. Rakesh Kumar Sharma, Adv

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 30-04-2024 1. Heard learned senior counsel for the petitioner and

learned A.P.P. for the State, Mr. Chandra Bhushan Prasad.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 279, 336, 337, 338, 304A, 304 and 34 of the Indian Penal Code and Sections 153 and 154 of Railway Act, 1989.

3. The learned senior counsel for the petitioner submits that petitioner is a person with clean antecedents and has been falsely implicated in the instant case during the course of investigation. It is next submitted that the informant, Haidar Alam, alleges that on 2-2-2019 at about 11.10 a.m., he caught Simanchal Express from Katihar railway station, further, the passengers in coach No. S-9 were protesting regarding



irregularities in the train, further, on 3-2-2019, at about 4 a.m., he heard a sudden thud and saw that the passengers were falling on one another, and thereafter realized that his compartment along with the engine was separated from other compartments, thereafter, he came out of the compartment and saw that 9-10 compartments overturned from the tracks near Sahdai Bujurg railway station, as the railway tracks had broken and on search, he located the dead body of his uncle Shamsuddin Alam and Asar Alam, grandmother Samda Khatoon along with others.

4. The learned senior counsel next submits that from perusal of the allegations as alleged in the FIR, it would manifest that it was a train accident and the FIR was against unknown and during the course of investigation, the petitioner came to be implicated on the ground that he was an Assistant Engineer posted with the railways and was responsible for maintaining the track. It is next submitted that the FIR initially was instituted under sections 279, 336, 337, 338, 304A and 34 of the IPC read with section 153 and 154 of the Railway Act, but during the course of investigation, the Supervising Authority without there being any material transpiring during the course of investigation attracting section 304 of the IPC, added the said section, i.e., 304 IPC. The learned senior counsel next submits



that a departmental proceeding was also initiated against the petitioner and he was inflicted with punishment of reversion, but then submits that the railways in order to save its face made the petitioner a scapegoat.

5. The learned senior counsel next draws the attention of the court to annexure-2 to the anticipatory bail application to submit that from perusal of the part of the inquiry report which relates to the petitioner, it would manifest that the same records – **Could the accident be averted?** – The rail fracture was precipitated by the fact that joint was not executed as per drawing, which requires it to be machine joint and use of old rail with new crossing. If new rail with matching rail height and new fish plate were used, perhaps the premature rail failure could have been avoided.

6. Learned counsel thereafter relies on para **7.3.10.**
Role of railway staff.

Sri Anil Kumar has conducted push trolley inspection in the section on the previous day and he failed to notice and anticipate the gap in the heel joint, had he initiated corrective action, probably the failure could have been avoided. He was also the last official who inspected the point on 6.12.18, where he failed to notice inherent defect in the heel joint.



7. It is thus submitted that the petitioner has been alleged to have committed dereliction of duty but then the petitioner carried inspection. It is next submitted that in the inquiry it has come that the derailment of Simanchal Express in all probability occurred on account of fracture of the rail and classified as failure of railway equipment due to poor construction and maintenance. It is thus submitted that the railway in its inquiry accepts the fact that derailment of the train was on account of poor construction and maintenance of the railway equipment which led to the occurrence.

8. It is further submitted that the petitioner had preferred an appeal before the appellate authority against the order of reversion, but when no action was taken, he moved before the learned CAT Bench Patna by filing OA number 50/89/2024, which was disposed of by an order dated 5-3-2024 with a direction to the appellate authority to conclude the appeal within a time frame. It is also submitted that the petitioner has retired and will cooperate in the investigation, which is still pending.

9. Learned A.P.P. for the State, Mr. Chandra Bhushan Prasad opposes the prayer for anticipatory bail of the petitioner.

10. 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 trial court 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 trial court where the case is pending/successor court in connection with Sonapur (Hajipur) Rail P.S. Case No. 22 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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