

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53556 of 2022

Arising Out of PS. Case No.-737 Year-2018 Thana- BETTIAH CITY District- West
Champaran

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PANKAJ SINGH @ PANKAJ KUMAR @ PANKAJ KUMAR SINGH Son
of Late Prabhash Chandra Singh R/o Village - Bhaluhar, P.S. - Amarpur,
District - Banka

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yash Singh, Adv.

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

12 23-08-2024

1. Heard the parties.

2. The petitioner apprehends his arrest in connection with Bettiah Nagar P.S. Case No. 737/ 2018 dated 23.08.2018 registered for the offence(s) punishable under Section(s) 408, 418 and 420 of the Indian Penal Code and Section 42 of the Prison Act.

3. Mr. Yash Singh, learned counsel for the petitioner submits that the petitioner is posted as head guard in the Bettiah Jail and the allegation levelled against him in the FIR is completely false and the FIR is based on the letter of District Magistrate, West Champaran and the same has been filed as Annexure-3 in which the District Magistrate has made specific allegation against the Jail Superintendent concerned and further



the petitioner has been subjected to the departmental proceeding and he has been exonerated from all the charges, and his suspension has also been revoked. In support of this submission learned counsel has drawn the attention of this Court towards the paragraph nos. 2-3 of the departmental proceeding's order. It is further submitted that in the FIR there is no details or discussion of any kind of evidence to show the direct involvement of the petitioner in the alleged crime and he has got no criminal antecedent. Learned counsel has placed reliance upon the judgement of Hon'ble Apex Court passed in ***Ashoo Surendranath Tewari vs The Deputy Superintendent of Police, EOW, CBI & Anr.,*** in **Cr. Appeal No. 575 of 2020** and has referred to the paragraph no. 7 of the said judgement, the relevant part of which is being reproduced hereinbelow:-

“7..... 31. It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case.

38..... (vii) In case of exoneration, however, on



merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principal being the higher standard of proof in criminal cases.

It finally concluded:

39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudicating proceeding as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the act in the adjudication proceedings, the trial of the persons concerned shall be an abuse of the process of the Court.”

4. Mr. Uma Shankar Prasad Singh, learned APP appearing for the State has opposed the bail prayer of the petitioner.

5. Having considered the above submissions and mainly taking into account the facts that in the FIR no cogent reason or evidence has been revealed to make the petitioner as an accused for the alleged wrong and further in the departmental



proceeding the petitioner has been exonerated from all the charges and in this regard, Annexure-2, an order issued by the I.G., Prison is relevant and it is mentioned in the said order that on the alleged day of recovery the petitioner was not performing his duty on the alleged gate, in my opinion, in the said circumstances, the petitioner deserves to the privilege of anticipatory bail. Accordingly, let the petitioner named-above, in the event of his arrest/surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail in connection with Bettiah Nagar P.S. Case No. 737/ 2018 on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Shailendra Singh, J)

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