

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84988 of 2023

Arising Out of PS. Case No.-464 Year-2023 Thana- SHASTRINAGAR District- Patna

Md Shamim Farooqui, Male, aged about 40 years, SON OF MD. HIBBAN FAROOQUI, RESIDENT OF Mohalla- CHAK RAHMAT, BHIGO, PS-LAHERIYA SARAI, DIST- DARBHANGA Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvadeo Singh, Advocate
Mr. Kamran Fazal, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh No. 1

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 07-03-2024 Heard Mr. Sarvadeo Singh, learned counsel, along with Mr. Kamran Fazal, learned counsel appearing on behalf of the petitioner and Mr. Anil Kumar Singh, No.1, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection with Shastrinager P.S. Case No. 464 of 2023 dated 13.05.2023 registered for the offence(s) punishable under Sections 417, 418, 420, 465, 471, 120(B) of the Indian Penal Code.

3. As per the allegation made in the FIR, the informant, who is the superintendent of one private hospital, namely, PARAS, HMRI, situated in Patna, has alleged that he has knowledge that petitioner has suppressed the fact that he had not qualified screening test in order to get provisional/permanent registration with National Medical Commission/State Medical Council to practice medicine in



India and has managed to get appointment on the basis of forged document of medical certificate/registration certificate at the time of appointment/interview. It is alleged that the petitioner continued in service from 16.12.2020 to 10.05.2023, the date the informant got information that among the 73 candidates having not qualified the Foreign Medical Graduate Entrance Test and the petitioner is also among one of them, on the basis of complaint lodged by the Ministry of Health and Family Welfare, Government of India and the CBI had conducted the inquiry and the FIR was lodged in that respect.

4. Mr. Sarvadeo Singh, along with Mr. Kamran Fazal, learned counsels appearing on behalf of the petitioner submitted that in the main case lodged by the Government of India, being CC No.27 of 2023, in which the petitioner is accused, has already been granted bail for similar accusation on 22.05.2023 by the Special Judge (PC Act)-12, Rouse Avenue Court Complex, New Delhi, as such, no case under Sections 417, 418, 420, 465 and 471/120(B) of the IPC is made out against the petitioner. In view of the fact that the FIR has been lodged by the private medical hospital only to deprive the petitioner from remuneration, which was required to be paid by the private hospital and in fact for the said act of the private



hospital, the petitioner is even contemplating to lodge an FIR against the medical hospital. Learned counsel referring to observation and discussion made in the order dated 22.05.2023 passed in CC No.27 of 2023 by the Special Judge (PC Act)-12, Rouse Avenue Court Complex, New Delhi, granting him bail at page nos.29 and 30 of the order that petitioner is cooperating with the investigation. Learned counsel further submitted that the petitioner having performed to the satisfaction of the management of the hospital, who, after holding an interview and examining the testimonials, had issued appointment letter, after having appointed the petitioner, now they have taken a somersault and have made frivolous allegations after the CBI is inquiring with respect to the 73 candidates holding degree from foreign medical college. Learned counsel emphatically submitted that the informant's hospital is registered with the Indian Medical Commission, as well as, the State Medical Council and is bound to abide by the terms and conditions of the registration and directions issued from time to time with respect to the eligibility of the doctors to be appointed to serve the hospital, the Directors and the Managing Committee of the hospital which perform the public duty and to save themselves from any prosecution under Section 13(2) read with 13(1)(d), 12



and 7 of PC Act, has lodged the present FIR against the petitioner. On these grounds, learned counsel submits that the FIR is vexatious in nature and the petitioner be enlarged on bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail, however, he has not denied the fact that the informant was ignorant of the fact of CBI inquiry and of the FIR lodged on the basis of CBI inquiry held with respect to 73 non-qualified candidates, being registered with the National Medical Commission and State Medical Council.

6. Having heard the rival submissions made on behalf of the parties and having perused the allegation made in the FIR and the material collected in course of investigation, I find that the petitioner, seeking employment, had applied pursuant to the advertisement seeking appointment on different posts by one private medical hospital, and after qualifying in the interview and having fulfilled all the terms and conditions of the advertisement for appointment, he was appointed on 16.12.2020 and served 10.05.2023, the date the FIR was lodged by the Superintendent of the hospital. It is admitted fact that the hospital is registered with Indian Medical Commission



and State Medical Council and is also governed by the terms and conditions of the registration is also bound to abide by the circulars issued by the Central Government Commission and the State Medical Council from time to time. The Board of Directors and the managing committee of the hospital have shown their complete ignorance with respect to the norms, which are required to be followed by them in appointment of doctors, by not verifying or documenting the requisite qualification of having passed the Foreign Medical Graduate Entrance Test even having come to the knowledge that petitioner had obtained degree from foreign medical college, the informant was required to seek from the petitioner to produce certificate granted by the National Medical Commission with respect to Foreign Medical Graduate Entrance Test, declaring the candidate to have passed the Foreign Medical Graduate Entrance Test. The private hospital in complete disregard to the terms and conditions of the Indian Medical Commission and the State Medical Council has not only cheated the people at large by appointing doctors, who have not qualified the National Medical Graduate Entrance Test and at the same time, they have breached the terms and conditions of the registration granted by the two premium institutes of the Government of India and the



State Government respectively. It is also admitted that pursuant to the FIR lodged on the basis of the complaint made by the Ministry of Health Family Welfare, Government of India, FIR CC No.27 of 2023 was lodged and the petitioner has been granted bail in the said case vide order dated 22.05.2023, I am of the opinion that petitioner has, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned ACJM IX, Patna in connection with Shastrinager P.S. Case No. 464 of 2023, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

8. Let a copy of this order be communicated to the Indian Medical Commission, National Medical Council, the Ministry of Health and Family Welfare, Government of India, CBI and State Medical Council.

(Purnendu Singh, J)

Sanjay/-

U		T	
---	--	---	--

