

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86177 of 2023

Arising Out of PS. Case No.-111 Year-2022 Thana- MAKHDUMPUR District- Jehanabad

Rakesh Kumar @ Niru Kumar Son Of Nashiblal Resident Of Village -
Lakhawar, P.S. - Ghoshi, District - Jehanabad

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrendra Kumar Singh, Adv.

For the Opposite Party/s : Mr.Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

2 18-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends arrest in connection with
Makhdumpur PS Case No. 111 of 2022 dated 23-02-2022,
instituted under Sections 420 of the IPC and Section 10 of Bihar
Conduct of Examination Act, 1981.

3. The prosecution case, in short, is that informant is
the Centre Superintendent of Project Kanya Inter School
Makhdumpur, Jehanabad, who has alleged that on 23-02-2022,
during the inspection of first sitting 10th Annual Examination,
2022, which was conducted by B.S.E.B Patna, in room no. 8, he
found the petitioner appeared as examinee in place of co-
accused, namely, Amar Kumar bearing Roll code No. 84510,
Roll No. 2200093 and Answer Sheet No. 7046721. Accordingly,



the FIR has been registered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in this case. After investigation, charge-sheet has been submitted against the petitioner under Section 420 of the IPC and Section 10 of Bihar Conduct of Examination Act, 1981 on 15-11-2022. Thereafter, the Magistrate took cognizance under the aforesaid Sections. It is submitted that no case under Section 420 of the IPC is made out against the petitioner by any stretch of interpretation, as held by this Court in the case of *Prashant Katyayan vs. the State of Bihar* in *Cr. Misc. No. 53124 of 2008*. There is complete violation of procedure of Bihar Conduct of Examination Act, 1981 (for short 'the Act') because the present case has been registered under Section 10 of the Act has to be investigated by a police officer not below the rank of Dy S.P., but the present case has been investigated by a police officer to the rank of Sub Inspection.

5. Learned APP has opposed the prayer for bail.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon



furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM IV Jehanabad, in Makhdumpur PS Case No. 111 of 2022, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

7. The application stands allowed.

(Khatim Reza, J)

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