

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5601 of 2024

Arising Out of PS. Case No.-478 Year-2023 Thana- CHHATAUNI District- East Champaran

Prabhat Mishra Son of Late Sitaram Mishra @ Siyaram Mishra Resident of
Village-Shri Krishna Nagar, P.S.- Town, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate

For the Opposite Party/s : Mrs. Rina Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 16-04-2024 Heard Mrs. Vaishnavi Singh, learned Counsel for the
petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Chhatauni P.S. Case No. 478 of 2023 for the offence registered under section 409 of the Indian Penal Code lodged on 28.09.2023 by the informant, Sarad Sain.

3. As per the prosecution story, the In-charge Principal, District Education and Training Institute (D.I.E.T.), Chhatauni, East Champaran lodged a written report alleging that in the light of the direction given by the Regional Deputy Director, Tirhut Division, Muzaffarpur, the petitioner who was serving with the said office was to join the office of the District Education Officer, East Champaran on 12.04.2023 but neither he handed over the entire financial document nor the Utility



Certificate with regard to the reconstruction of the institute for which the District Magistrate, East Champaran has sent Rs. 14 lakhs though he had withdrew Rs. 4 lakhs. Further, no inventory was prepared thus having create financial implications. It was only after the direction given to the petitioner to hand over charge within 24 hours that on 23.09.2023, he came with the old cash book/other documents which was/were not signed by the Ex-Principal. Later, he came with the vouchers of the utilised amount which was produced before the three men Committee. However, dissatisfied with it, the F.I.R.

4. Learned Counsel for the petitioner submits that there was personal animosity between the then Principal of 'the D.I.E.T.', Chandramauli Tripathi and this petitioner and once transferred, he tried his level best to hand over the charge as also provide all the documents relating to the payments made with regard to Rs. 4 lakhs out of the Rs. 14 lakhs donated by the District Magistrate, East Champaran for the reconstruction of the Institute. However, deliberately, the Ex-Principal painted him black as in absence of his signing the documents, neither the utility certificate could be provided nor any inventory made.

5. Mrs. Singh submits that later at the behest of District Education Officer, East Champaran, Motihari, three



men Committee was constituted headed by a Senior Lecturer, Sanjay Kumar and his statement has been recorded in the case diary at paragraph - 6 wherein he has stated that though the petitioner withdrew Rs. 4 lakhs, the work worth more than Rs. 4 lakhs were made, it was only due to the personal soured relationship between the then Principal, Chandramauli Tripathi and the petitioner that the inventory could not be prepared and at no point of time, the then Principal was ready to put in his signature on any of the document relating to the petitioner handing over the charge.

6. The last submission is that the petitioner is still ready to appear before the Office of the District Education Officer, East Champaran, Motihari and provide all the documents relating to the financial transaction that took place during his tenure in 'the D.I.E.T.'.

7. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that allegation is that despite having been transferred to the office of the District Education Officer, East Champaran, Motihari, he deliberately did not hand over the charge nor give details of the amount (Rs. 4 lakhs) withdrew by him nor the inventory was prepared.

8. In this case, a co-ordinate bench on 17. 02.2024 had



called for the Case Diary which is on record. Paragraph-6 of the case diary endorses the submissions put forward by the learned Counsel for the petitioner. Learned APP has perused it and has also acknowledged the same. In the aforesaid facts and circumstances, this Court is of the opinion that a rope be granted to the petitioner to satisfy the District Education Officer, East Champaran, Motihari on the facts which still may have been unanswered.

9. So far as the relief sought for by the petitioner is concerned, on consideration of the aforesaid facts, this Court is inclined to extend him the privilege of anticipatory bail with the condition that he shall be appearing before the office of District Education Officer, East Champaran, Motihari within a period of four weeks after surrendering and taking bail before the said office of the D.E.O. and with all the documents who shall peruse and same and satisfy itself on the points put forward.

10. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran, Motihari in connection with



Chhatauni P.S. Case No. 478 of 2023 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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