

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11380 of 2015

Arising Out of PS.Case No. -20 Year- 2013 Thana -C.B.I CASE District- PATNA

Rakesh Kumar Son of Shri Bhuvnesh kumar Verma resident of Village and P.O. Mohanpur, p.s. Samastipur, Muffasil, District- samastipur.

.... Petitioner/s

Versus

The State of Bihar (Through C.B.I)

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chitranjan Sinha, Sr. Adv.

For the Opposite Party/s : Mr. Bipin Kumar Sinha(SC CBI)

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

6 24-08-2015

Heard learned counsel for the parties.

The petitioner, being accused for offence under Section 13(2) r/w 13(i) (e) of the P.C. Act 1988 and Section 109 of the Indian Penal Code, while praying for anticipatory bail, has come out to say that the calculation arrived at by the C.B.I. of the petitioner possessing the disproportionate assets to the tune of Rs. 91,24,494/- is obviously based on error of record and in ignorance of the his known source of the income which he had acquired through his father who was himself a government servant and thus had also received a sizeable amount of retirement benefit to the tune of more than Rs. 33 lacs. Mr. Chitranjan Sinha, learned senior counsel, appearing on behalf of the petitioner, in fact, has also desired that the issue should be gone into the other calculation

which in turn reflect that the whole conclusion of the CBI of the petitioner possessing disproportionate assets is factually incorrect.

Mr. Bipin Kumar Sinha, learned counsel for the CBI, on the other hand, while vehemently opposing the prayer of anticipatory bail of the petitioner, has submitted that an explanation given by the petitioner in annexure-9 to the bail application also includes certain amount which were prior to check period and in fact the other explanations were made not known to the Investigating Officer. He has further submitted that the income of father of the petitioner also, to the extent it was permissible, was taken into consideration and, therefore, it will not be correct to say that the conclusion arrived at by the CBI, as with regard to the petitioner having disproportionate asset, is either factually incorrect or legally impermissible. He has also submitted that in any event, the police papers are ready and that have not been supplied only because the court concerned is vacant and, therefore, the petitioner's trial itself can be concluded if the petitioner cooperates in such trial.

Having regard to the fact that the petitioner was holding the post of Sub Divisional Engineer in BSNL and that he has some plausible explanation in explaining the income because he had also excess to the income also of his father and his wife, both of



whom are not only having monthly income from their pension/salary but also they are income tax payee, this Court, taking into account that the petitioner has also got no criminal antecedent and no useful purpose will now be served if the petitioner is taken into custody in connection with an offence, where the investigation has also been complied by the CBI, would direct the petitioner, namely, Rakesh Kumar to surrender before the court below within a period of four weeks from today and if he does so, he will be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, C.B.I.-III, Patna in connection with Spl. Case No. 14 of 2013 (arising out of CBI/ACB R.C. 20(A)/2013), subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) That on supply of police papers by the CBI, the petitioner shall not create any obstacle in expeditious disposal of the trial and, for that purpose, he must remain present in the court on the date fixed by the trial court.
- (ii) The trial court also must make his endeavor to dispose of the trial at an early date preferably within a period of one year from the date of supply of the police papers to the

petitioners and his wife who are the only two accused persons in this case. .

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- (iii) If at any point of time it is found that the petitioner and/or other co-accused person including his wife being the other co-accused in any way are creating obstacle in expeditious disposal of the trial, the trial court will be at liberty to cancel the bail.
 - (iv) That both the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.
 - (v) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.
 - (vi) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the

ground of misuse.

(vii) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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