

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53990 of 2015

Arising Out of PS.Case No. -7 Year- 2000 Thana -C.B.I CASE District- MUZAFFARPUR

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1. Ajay Kumar Shrivastava S/o Shri Haribansh Sahay Resident of Village-
Hassanpur Mathia, P.s Sidhwalia, District Gopalganj.

.... Petitioner/s

Versus

1. State of Bihar Through The Vigilance Bureau, Bihar, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Kumar

For the Opposite Party/s : Mr. Rama Kant Sharma(L.O,I/C Vigi)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 27-11-2015

Heard learned counsels for the Petitioner and
the Vigilance.

The Petitioner has renewed his prayer for anticipatory bail in a case registered for the offences punishable under Sections 409, 465, 467, 471, 477A, 120B, 109 and 201 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.

The prosecution case is that from Lauria Sugar Mill 998 bags of sugar were misappropriated by FIR named accused persons including the petitioner being Accountant by showing sale of the same to fake and fictitious purchasers. It is specifically alleged that in between 21.09.1990 to 28.09.1990 797 bags of sugar worth



Rs.6,39,288/- were shown to have been sold to M/S. Gopal and Company, Gola Road, Muzaffarpur whereas in between 21.09.1990 to 28.09.1990 200 bags of sugar worth Rs.1,60,800/- to M/S Loknath Chhoti Ramana, Bettiah, West Champaran. During preliminary enquiry, no firm/company in the name and style M/S. Gopal and company was traced at Gola Road, Muzaffarpur whereas the other firm M/S. Loknath Chhoti Ramana was found in existence at Chhoti Ramana, Bettiah but its proprietor Nawal Kishor Dalmia was found dead by the time the enquiry was conducted.

It is submitted by learned counsel for the Petitioner that the second anticipatory bail application of the Petitioner is maintainable in view of the ratio laid down in case of Rabindra Saxena versus State of Rajasthan, (2010) 1 SCC 684. For the alleged supply made in 1990, the FIR was lodged in 2000 but the investigation was concluded and Final Form/Chargesheet was submitted in 2011. The order of cognizance was passed on 23.07.2014 and consequently summons were issued. Earlier the enquiry was conducted by the high officials of the Government of Bihar as well as Bihar State Sugar Corporation and they exonerated the petitioner and others. Similarly situated accused have been granted anticipatory bail vide Cr. Misc. No. 9225 of 2000

and Cr. Misc. No. 8470 of 2000. Since the investigation has concluded, there is no need of custodial interrogation. Moreover the Petitioner has cooperated during investigation. The Petitioner was an Accountant at Lauria Sugar Mill and now he has retired.

It is submitted by learned counsel for the Vigilance that the accusation has been found true against the petitioner and others and he has been chargesheeted but has not controverted that the other accused have been granted anticipatory bail and petitioner has cooperated during investigation.

Considering the rival submissions of the parties since the case was registered in 2000 and the Petitioner's anticipatory bail application was earlier rejected on merit, this Court is not inclined to consider the prayer for anticipatory bail but considering the fact that investigation has already been concluded, other accused persons have been granted anticipatory bail by co-ordinate Bench of this Court and the Petitioner has already retired, no useful purpose will be served putting him in custody now. Hence, it is a case for consideration of regular bail of the Petitioner by learned court below. It is expected that learned court below will dispose of the regular bail application of the Petitioner

preferably on the same day, in case the Petitioner surrenders within a period of six weeks from today in connection with Special Case No.94 of 2002, pending in the Court of learned Special Judge, Vigilance, North Bihar, Muzaffarpur.

The application is disposed of with the aforesaid observation/direction.

(Dinesh Kumar Singh, J)

Anil/-

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