IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27652 of 2016

Arising Out of PS.Case No. -41 Year- 2016 Thana -C.B.I CASE District- PATNA

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Animesh Kumar, Son of Sri Bharat Bhushan Kumar, Resident of Village-Jadopur, P.S- Harsiddhi, District East Champaran, Bihar.

.... Petitioner/s

Versus

The State of Bihar through Vigilance

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Singh
Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Ramakant Sharma (L.O.,I/C Vig.)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

5 29-09-2016 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner apprehends his arrest in connection with Vigilance P.S. Case No. 41 of 2016 corresponding to Spl. Case No. 21 of 2016 for the offences registered under Sections 420, 409, 467, 468, 471 and 120(B) of the Indian Penal Code and Section 13(2) read alongwith Section 13(1)(C)(D) of the P.C. Act 1988.

Learned counsel for the petitioner submits that he is District Transport Officer, posted at Kaimur at Bhabhua and the raid, which was conducted on the Karmanasha composite check post, is well within his jurisdiction. There was excess recovery of money from the counter of the check post which could not be accounted for, by the personnel present at the said check post. Thus, it was alleged in the First Information Report, that the petitioner in league with the Motor Vehicle Inspector, has been conducting some clandestine activity and had been responsible for some corrupt practices at the check post, for which reason the money was available there without being accounted for. It is further submitted that as alleged being a District Transport Officer, he was the overall in-charge of the entire district and whatever illegalities were taking place were either at his instance and in connivance with the District Transport Officer and the conduit that he had organized along with other functionaries of the Karmanasha Check post.

Learned counsel for the petitioner submitted that though he is District Transport Officer, he is not altogether responsible for each and every event which takes place around the district and at best, he could be made responsible for such event which are performed within his office. However, though the said Karmanasha check post is under his control, entire function of the check post is under various personnel, who have been named in the first information report. It is further submitted that in pursuance of the said raid and because of the fact that petitioner could not give any plausible answer for the excess money, available at the check post, the petitioner was made liable for such discrepancies and anomalies and is being made to face the present prosecution.

On the last occasion when the matter was taken up, learned Sr. Counsel appearing on behalf of the State Vigilance had sought an adjournment for filing a counter affidavit in this matter. Thereafter, the counter affidavit has been duly filed in which State Vigilance has submitted that the petitioner in the capacity of the then DTO, Kaimur and Sri Rakesh Ranjan the then M.V.I., Kaimur,in connivance and conspiracy with each other used to run a racket for extorting money from the vehicles passing through the Karmanasha check post. During the course of enquiry, a raid was conducted by the State Vigilance at the Karmanasha Check post and an excess amount of Rs. 5,28,000/- was recovered and seized from the counter, for which neither of the persons, available at the said check post, offered any plausible explanation nor could the petitioner or his MVI explain the excess money at the said check post.

However, learned counsel for the petitioner has clearly denied his role in the presence of such excess money and has stated that the same could be explained only after conducting a proper audit in the matter. However, learned counsel for the

State Vigilance submits that the recovery and seizure of such huge amount of surplus money which is neither accounted for under the tax collection head or the compounding head clearly points fingers at the complicity of higher officials which includes the petitioner. He further submits that though on the last occasion, the petitioner had been given opportunity to come and explain the discrepancy for which an interim order had been extended in his favour, but the petitioner appeared and offered only evasive answers to the queries made by the investigating officer. It is in the wake of such facts and circumstances that the State Vigilance now resisted his prayer for anticipatory bail.

I have heard learned counsel for the parties and perused the materials available on the record including the counter affidavit filed by the State Vigilance Department.

It appears from the submissions advanced by the learned State Vigilance that the petitioner has in fact appeared in pursuance of the order dated 25.07.2016, and the petitioner had been extended the interim benefit in his favour on the undertaking advanced by him that he is ready to cooperate with the investigation and shall appear before them within a period of four weeks to explain whatever discrepancies. It appears that the petitioner has indeed appeared, but though he has appeared, the counsel for the State Vigilance has stated that his performance at the interrogation has not been entirely cooperative.

In response to the aforementioned submissions made on behalf of the learned counsel for the State vigilance, learned counsel for the petitioner submits that even on date, the petitioner is willing and ready to appear before the State Vigilance Agency and to reply any interrogation which may be advanced towards revealing the true facts of the matter and that he shall not evade the process of the investigation and the process of the court after submission of charge sheet.

Learned counsel for the petitioner undertakes that on submission of the charge sheet by the Vigilance, after due cooperation by him, the petitioner will again appear before the Court and collect the police papers.

In view of the aforesaid facts and circumstances of the case and the undertaking advanced by the petitioner and also because of the fact that he had appeared before the Investigating Authorities in compliance of his earlier undertaking, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Spl. Judge, Vigilance 1, Patna in connection with Vigilance P.S. Case No. 41 of 2016 corresponding to Spl. Case No. 21 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

However, it is made clear that one of the bailors should be blood relatives who will inform the Court about whereabouts of the petitioner. The undertaking which has given by him shall be honoured by him in all circumstances. If the petitioner absents himself on two consecutive dates without permission of the Court, it shall be open for the prosecution to take appropriate action in accordance with law.

(Anjana Mishra, J)

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