

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31298 of 2016

Arising Out of PS.Case No. -270 Year- 2016 Thana -KOTWALI District- PATNA

Vivek Ranjan s/o Sri Arun Kumar, resident of Nehru Nagar, House No. 405, P.S. Pataliputra, Patna.

.... Petitioner/s

Versus

The State of Bihar through The Vigilance Bureau, Bihar, Patna.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Ansul
Mr. Rajesh Ranjan
Mr. Ravi Kumar

For the State : Mr. Ajay Mishra

For the Vigilance : Mr. Kedar Singh, A.C. to L/O Vigilance

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

11 04-10-2016 Heard Mr. P.K. Shahi, learned Senior Counsel for the petitioner and Mr. Ajay Mishra, learned Additional Public Prosecutor for the State.

2. Learned counsel for the Vigilance was also served with a copy of the present application for anticipatory bail but since the matter is being investigated by the S.I.T. (Special Investigation Team) of the State Government, the learned Senior Counsel appearing on behalf of the Vigilance has declined to appear in the present case. As such, the appearance of the learned counsel for the Vigilance is dispensed with.

3. Learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner is apprehending his arrest in



connection with Special Case No. 32/2016 (arising out of Kotwali P.S. Case No. 270/2016) registered for the offence punishable under Sections 420/465/467/471/120B of the Indian Penal Code. Subsequently, Section 8/9/13(1)(e) read with Section 13(ii) of the Prevention of Corruption Act, 1988 was also added. It is submitted that on the basis of written report dated 06.06.2016 by one Shri Rajiv Ranjan Prasad Singh Ranjan, Director, Secondary Education, Government of Bihar, Patna, alleging, inter alia, that the intermediate examination of the year 2016 was conducted through out the State of Bihar with all fairness. However, it was discovered that a certain institution by the name of Vishundeo Rai College, Kiratpur, Rajaram Bhagwanpur, Vaishali, by adopting unfair means granted to the students, got the position 1 to 10 in the merit-list and secured top position in Science and Arts stream. The entire episode was highlighted through the electronic media across the State and, thereafter, the Bihar School Examination Board (hereinafter referred to as the 'Board') was called upon to answer the allegation. Accordingly, investigations were initiated against the said college. It has been averred that the Board had conducted the examination for the intermediate between 24th of February, 2016 to 5th of March, 2016 and the G.A. Inter College, Hajipur had been fixed as Examination Centre for Vishundeo Rai



College, Kiratpur, Rajaram Bhagwanpur, Vaishali, and the evaluation centre of the said institution was made at Balak High School, Rajendra Nagar, Patna. It was known to the Government that the District of Bhabhua and Arrah were the evaluation centres fixed for evaluation of institutions of the Vaishali district, but contrary to that, the evaluation of the aforesaid school was done at Balak High School, Rajendra Nagar, Patna, with the intention of providing benefits to the students of Kiratpur Mahavidhyalaya. The First Information Report also contains the description of the results of the topper students of the Vishundeo Rai College, Kiratpur. Accordingly, a First Information Report was registered bearing Kotwali P.S. Case No. 270/2016. However, in due course, with more and more anomalies surfacing, it came to be subsequently registered as Special Case No. 32 of 2016 under Sections 420/465/467/468/471/120B /188/201/of the Indian Penal Code and subsequently Section 8/9/13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 was also added.

4. Learned Senior Counsel for the petitioner further submits that in pursuance of the aforementioned First Information Report, investigations were initiated and conducted including prosecution and investigation against the Chairman of the Board. The petitioner is the son-in-law of the said Chairman of the Board and

on account of certain statements made in course of investigation, he is also facing prosecution for his complicity in the alleged irregularities having been committed at the said examination.

5. Learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner is a young man having started his career as a Senior Section Engineer at Danapur Division, East Central Railways having qualified at the Indian Engineering Services (IES) Examination. He submits that the investigation against the present petitioner was first started on the statement made before the Police by one Anil Kumar who was the P.A. (Personal Assistant) of the Chairman of the Board, namely, Shri Lalkeshwar Prasad Singh who stated that the petitioner was having a partnership in the firm which is engaged in the business of printing at Kolkata where all examination results were processed and which was also engaged in the supply of answersheets to the Board. It was also submitted that one Sanjay who is said to be the bodyguard of the Chairman of the Board and further one Vikash Kumar alias Vikash Chandra, Private Secretary to the Chairman, had also stated that the son-in-law was receiving commission in the entire transactions and tenders which were being given to favorites of the Chairman. Accordingly, raids were conducted at the premises of the present petitioner in which it is alleged that

certain incriminating documents were recovered from his house. The said incriminating documents led to further investigation against the petitioner.

6. Learned Senior Counsel further submits that even though the raids did not yield much materials and only three photostat copies of the certificates of one of his relatives were recovered and also the photostat copies of the certificate of himself and his brother were recovered from his residence and no further incriminating material was found at the residence to indicate his involvement in connection with the present offence, the petitioner is sought to be roped into the present case. It is submitted that the recoveries of old and genuine matriculation, intermediate and graduation certificates of the petitioner and his brother and also the admission certificate of one Aarti Kumari, who is a cousin, would not suffice to implicate the petitioner and bring him into the dragnet of the present controversy. It is further submitted by learned Senior Counsel appearing on behalf of the petitioner that the entire investigation against the petitioner is only a motive to harass and tarnish his image in the society and to ruin his bright career as officer in the railways and if in pursuance of the present prosecution, the petitioner is taken into custody, he will suffer serious prejudice in his entire career and will also suffer immense

social stigma.

7. Learned Senior Counsel for the petitioner submits that though the allegation, as has been made against the petitioner that he was a partner in the Kolkata press, no specific material has come on record to indicate that the petitioner was, in fact, a partner in the press aforementioned by the investigating authorities. Moreso, when the police went to investigate at the said press at Kolkata, it was found to be of one S. Basu Roy & Co. and nothing emerged to show that the petitioner was, in fact, a partner of the said firm.

8. It is submitted that the father-in-law of the petitioner has already been taken into custody and whatever records were required to be seized, have already been taken into possession by the prosecution and there is no danger that the petitioner will tamper the evidence and abscond as he is in a responsible position and is currently posted at Danapur Division, East Central Railways.

9. Learned Senior Counsel for the petitioner further submits that though, it has been alleged that the petitioner was receiving commission in the activities and tenders which were being allotted by his father-in-law, there is no cogent material on record to indicate that such a fact had, in fact, ever been investigated and

such a bald allegation could not alone suffice to implicate the present petitioner.

10. Diary in this case was called for earlier, which has, since been received.

11. Mr. Ajay Mishra, learned Additional Public Prosecutor appearing on behalf of the State after a thorough perusal of the case diary has seriously contested the prayer for grant of anticipatory bail and submits that the petitioner is the son-in-law of the main accused of the present case, namely, Shri Lalkeshwar Prasad Singh. It is submitted that at the first instance, petitioner's involvement, in connection with the present case, came on record during the course of investigation as one Anil Kumar named the petitioner to have helped in the entire irregularities committed within the Board at the instance of his father-in-law. It was stated by the said Anil Kumar that the petitioner was a partner in the printing press where questions were printing and answer-books were also printed and placed before the Board. It was in pursuance of the said submission that the permission was sought from the Court to examine the petitioner and conduct a search at his residence. Thereafter, such a raid was conducted which yielded certain incriminating materials which find place at paragraph No. 218 and 219 of the case diary. Learned Additional Public

Prosecutor for the State further submitted that during the course of raid following incriminating documents have been seized:-

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- I. Photostat copies of matriculation certificate, intermediate certificate and graduation certificate of Santosh Kumar, issued by the Bihar School Examination Board, Bihar Intermediate Educational Council and Magadh University, respectively and also photostat copy his caste certificate;
 - II. Identity Card of Vivek Ranjan;
 - III. Photostat copy of RITES registration of Prabhat Ranjan and Vivek Ranjan;
 - IV. photostat copies of matriculation certificate and intermediate certificate mark-sheet of Aarti Kumari
 - V. A thin green coloured diary.

12. Learned Additional Public Prosecutor for the State further submits that such materials found in the possession of the petitioner was indicative of the fact that there was nexus with the main accused in the irregularities being committed in the Board in connection with examination, referred to above. It is further submitted that the Investigating Officer of the present case had proceeded to Kolkata for ascertaining the status of S. Basu & Co. and from their premises certain letters were also recovered which



reveal that the examination results as well as copies were being processed at the aforementioned printing press. It was contended by learned Additional Public Prosecutor for the State that over and above the admission of the main accused namely, Lalkeshwar Prasad Singh during custodial interrogation at paragraph No. 270 of the case dairy clearly indicates that the present petitioner was, indeed, involved in all the transactions being conducted by the father-in-law as he himself during the course of custodial interrogation has named the petitioner as having helped him in tenders which were being awarded by him to various parties and in that he was receiving his commission. The said admissions have found place in answer to various questions placed before the said Lalkeshwar Prasad Singh, father-in-law of the present petitioner. Thus, there is no iota of doubt that prima facie, the petitioner in league with this father-in-law is involved in irregularities being committed at the Board leading to immense humiliation of the State with regard to the education system prevailing herein. It is submitted that not only the statement of main accused is there, pointing fingers at the present petitioner, but the statement of Smt. Usha Sinha who is the wife of the main accused and mother-in-law of the present petitioner, who has named the petitioner, in connection with present case. The statement of the bodyguard at



paragraph No. 206 of the case diary and also of one Vikash Chandra who was the P.A. of the father-in-law of the petitioner indicates to establish the prima facie involvement of the present petitioner. As such, the petitioner being prima facie involved in the case should not be extended the privilege of anticipatory bail. In view of the fact that the investigation is still in progress and there is likelihood that the petitioner will interfere in the investigation and tamper with the evidence due to his high level connections, the petitioner does not deserve the privilege of anticipatory bail and, thus, his application should be rejected.

13. Learned Senior Counsel appearing on behalf of the petitioner has retorted to the aforementioned submissions advanced by learned Additional Public Prosecutor for the State. While submitting that the investigation in the present case has deviated from what was actually alleged in the original First Information Report, it was submitted that after the lodging of the First Information Report, the investigation moved in wrong direction and material which was not directly or indirectly connected with the case as was originally registered were gone into and the investigation came to be aimed, not at the results and the colleges which was involved in the fraudulent action, rather, the entire investigation started revolving around the Chairman of



the Board and those who were closely connected with him. It was in pursuance of such a situation that the State constituted a Special Investigation Team (S.I.T.) to go further deep into the investigation and, thereafter, the investigation proceeded towards the present petitioner on the statement made by one Anil Kumar who was the P.A. to the Chairman of the Board. Thereafter, the petitioner is being continuously harassed and though it was only one college which was involved in the scam the investigation has digressed considerably. It was submitted that the alleged recovery of certificates have nothing to do with the present prosecution and, are, either his own certificates and or those of his relatives and cannot be used or by any stretch of imagination being called into net and connected with the present case. It was further submitted that so far as the statements made by Lalkeshwar Prasad Singh are concerned, they are admissions made in the shape of confessions /admissions and are hit by Sections 25 of the Evidence Act and could not be used for implicating the present petitioner at the present stage. It is further submitted that all the documents necessary for the investigation have been taken into custody by the officials of the State Vigilance and the petitioner being the responsible Government servant should not be subjected to custodial interrogation. It is submitted that the petitioner is willing



to face whatever interrogation, he may be called upon to explain by the investigating authorities and on being called, he shall make himself available before him as specified and communicated to him properly. He further submits that since he is a Government servant and is currently posted at Danapur Division, East Central Railways, within the close proximity of the present Court, where the case is pending, the petitioner will appear before the Court as and when required and communications to the said effect may be reached to him through his Controlling Officer at Danapur Division, East Central Railways so that there is no possibility of non-communication of any document or information or date to him.

14. It is also submitted that the petitioner will make himself available at the time, the chargesheet is filed and be ready to take the police papers when so required after submission of chargesheet. As such, it is submitted that the petitioner may be extended the privilege of anticipatory bail.

15. In support of his submissions, learned Senior Counsel has referred to a judgement by the Apex Court in the case of Bhadresh Bipinbhai Sheth V. State of Gujarat and another reported in (2016) 1 SCC 152, in which the Court has dealt with the circumstances in which the privilege of anticipatory bail which

is quoted hereunder which is but a reproduction of para 112 of the judgment passed in the case of Siddharam Satlingappa Mhetre v. State of Maharashtra reported in (2011) 1 SCC 694.

25.10. The following factors and parameters need to be taken into consideration while dealing with anticipatory bail:

- (a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (c) The possibility of the applicant to flee from justice;
- (d) The possibility of the accused's likelihood to repeat similar or other offences;
- (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
- (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;
- (h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- (j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

In view of the aforementioned guidelines the petitioner may also be granted the said privilege as had been extended to the

accused in the case cited which would also be applicable in this case.

16. Learned Additional Public Prosecutor for the State who has strenuously urged and indicated the involvement of the petitioner by referring to several paragraphs of the case diary, submits that there is ample evidence in the case dairy to indicate that the petitioner was part of the nexus and had actively participated in the offence which has been stated in the First Information Report and investigation being still in progress would be seriously hindered and tampered with as the petitioner was found to be removing his assets during the course of investigation. Under such circumstances, the benefit of pre-arrest bail which would be extended in his favour would severely prejudice the investigation.

17. Having heard learned Senior Counsel for the petitioner and learned Additional Public Prosecutor for the State, it appears to me that the evidences which have been collected till date are very bleak and obscure. However, the investigation is still under progress and the petitioner has given an undertaking that he will co-operate in the proceedings. It has been submitted categorically by learned Senior Counsel for the petitioner that the petitioner would make himself available at all material times as such though

there is an extra judicial confessional as against the petitioner which may/may not point finger at the petitioner. No further custodial interrogation of the petitioner would serve any purpose at the present stage.

18. In view of the fact that the petitioner is a responsible Government servant and the undertaking has already been extended by learned Senior Counsel appearing on behalf of the petitioner, it appears that putting him behind the bars would not serve any fruitful purpose. As such, let the petitioner abovenamed, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Vigilance-1st, Patna in connection with Special Case No. 32/2016 (arising out of Kotwali P.S. Case No. 270/2016), subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

19. It is made clear that the petitioner shall appear before the investigating authorities on the dates so fixed by it and co-operate in the investigation as and when required. He shall not seek or take a transfer and inform his controlling authorities regarding the present status of the case and shall also present

himself in the Court of Special Judge Vigilance-1st, Patna, on submission of the chargesheet by the Special Investigation Team.

20. It is made clear that one of the bailors shall be his father/mother/blood relatives who shall keep the Court apprised of the movements of the petitioner and any change in address of the petitioner. The petitioner shall also not dispose of any property belonging to him without seeking permission of the Court of Vigilance. It is also made clear that on commencement of the trial, the petitioner shall appear on all relevant dates through communication made through his controlling authority and in case, he absconds for two consecutive dates without seeking permission of the Court, it would be open to the prosecution to take appropriate recourse to law.

21. Let a copy of this order be also communicated to the D.R.M., Danapur Division, East Central Railways, Danapur, Patna so that he shall be aware of this order and ensure the participation of the present petitioner in the investigation.

(Anjana Mishra, J.)

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