IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29406 of 2016

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

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1. Sushil Kumar Srivastava S/o Sri Deo Nandan Prasad resident of Lauria Sugar Mill, P.O. and P.S. Lauria, Teachers Colony, Behind Hospital District- East Champaran.

.... 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. Ramakant Sharma

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL ORDER

2 05-09-2016 Heard Mr. Ankit Katriar for the petitioner and Mr. Rakesh Kumar Sharma for the Vigilance.

In 1990, it is alleged that 998 bags of sugar were removed from the Lauria Sugar Mill, a unit of the Bihar State Sugar Corporation and fictitious sale documents were produced and they were adjusted in the books of accounts through bogus vouchers. In 2000, the matter was reported and the case was registered.

The allegation is that several authorities of the Lauria Sugar Mill including the petitioner had connived in misappropriating the proceeds of 998 bags of sugar. The charge-sheet was filed in 2007 whereafter the cognizance has been taken in 2014 and hence the application for grant of anticipatory bail in Special case no. 94 of 2002 arising out of Vigilance P.S. case no. 7

of 2000, registered under Sections 409, 420 and other allied Sections of the IPC read with Section 13(2) and 13(1)(d) of the Prevention of Corruption Act.

The allegation is that the petitioner during the relevant time was incharge of writing cash book of the Sugar Mill.

Contention of the petitioner is that there is long delay in lodging the FIR. The petitioner being the account Clerk was lowest in the hierarchy and was only following the order of the superior authority who are also co –accuseds. During the investigation, the petitioner cooperated with the investigating agency. Now the charge sheet has already been filed. The petitioner having attained the age of superannuation has retired from service. Referring to the order at Annexure-3 series, it is stated that other co-accuseds who were similarly named in the FIR, and were superior in rank to the petitioner, have been granted the privilege of anticipatory bail. There is no chance of tampering with the evidence. The petitioner shall attend the trial as and when called upon.

Learned counsel for the Vigilance, on the other hand, has submitted that he was part of the conspiracy and was instrumental in writing false/fictitious cash book on the basis of vouchers which were found bogus/fake.

Be that as it may, considering the fact, particularly, the fact that other co-accuseds of the case have been privileged with anticipatory bail, I am inclined to extend him the privilege of anticipatory bail. Let the petitioner, named above, in the event of his arrest/surrender before the learned Court below within a period of four weeks from today, be released 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, North Bihar, Muzaffarpur, in connection with Special Case no. 94 of 2002 (arising out of Vigilance P.S. case no. 7/2000), subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with further following conditions:-

(i) One of the bailors shall be the own/close family member of the petitioner.

(ii) As soon as the charges are framed the petitioner shall appear in person before the trial court on the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure his arrest in accordance with law.

(Kishore Kumar Mandal, J)

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