

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20648 of 2016

Arising Out of PS.Case No. -65 Year- 2016 Thana -PATRAKARNAGAR District- PATNA

Binay Kumar son of Sri Dinkar Prasad Singh, resident of village-Chero,
P.S.-Sarmera, District- Nalanda at present Sub Inspector Patrakar Nagar
Police Station, District- Patna

.... Petitioner/s

Versus

1.State of Bihar

2.The State of Bihar through Vigilance Department, Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar, Advocate

For the State : Mr. Jitendra Kumar Singh 1, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

3 26-05-2016 Heard learned counsel for the petitioner and learned
counsel for the Vigilance.

2. The petitioner seeks pre-arrest bail in connection with
Special Case No. 10 of 2016 arising out of Patrakar Nagar P.S.
Case No.65 of 2016 registered under Sections 7, 8 and 9 of the
Prevention of Corruption Act.

3. According to the First Information Report, one
Manish Kumar Roy was using the motorcycle of his friend, which
was unauthorisedly brought by the petitioner, a Sub Inspector of
Police, to the police station. When the informant went to the police
station, he firstly demanded Rs.50,000/- for releasing the
motorcycle. When the informant stated that the motorcycle, in
question, was of his friend and requested him to release it, he
reduced his demand to Rs.25,000/-. The informant complained to



the Superintendent of Police, Patna in this regard, who directed a Deputy Superintendent of Police to enquire into the matter and take appropriate action. The Deputy Superintendent of Police made an enquiry and found the allegation of demand of illegal gratification to be true. Accordingly, a trap team was organized. As per plan, the complainant made a call to the petitioner, who disconnected the phone call and, thereafter, the petitioner himself made a call to the complainant Manish Kumar Roy. He called him at the police station. When the complainant reached at the police station, the petitioner was present there with his associate Bimlesh Kumar Sharma. He told the complainant to pay the amount to his associate Bimlesh Kumar Sharma and went inside and Bimlesh Kumar Sharma took the amount after bringing the complainant to the backside of the police station. The trap team immediately swung into action and caught hold of Bimlesh Kumar Sharma along with the notes. The team also tried to search and apprehend the petitioner, but he managed to escape from the police station. However, his mobile phone was seized and the accused Bimlesh Kumar Sharma was produced to the office of the Senior Superintendent of Police, Patna along with the seized articles.

4. It is submitted by the learned counsel for the petitioner that the entire allegation made against the petitioner is false and the petitioner has been implicated in the case at the



behest of some senior police officers, who were not happy with the honesty and integrity of the petitioner. He has further submitted that the procedures prescribed for laying trap were not followed, as there was no preliminary enquiry conducted in the matter and even pre-trap and post-trap memorandums were not prepared by the police. He has submitted that the petitioner has nothing to do with the aforesaid Bimlesh Kumar Sharma from whose possession the amount of illegal gratification is alleged to have been recovered.

5. Countering the arguments advanced by the learned counsel for the petitioner, learned counsel for the Vigilance has submitted that on receipt of complaint from the informant of the case under the instruction of the Superintendent of Police a Deputy Superintendent of Police was entrusted with inquiry into the matter and, upon enquiry, the allegations were found true. Thereafter, the trap team was constituted and at the time of raid, one police constable was deputed there to verify whether any demand is being made or not. The constable accompanying the complainant approached the petitioner and in his presence the petitioner directed the complainant of the case to deposit the money to Bimlesh Kumar Sharma, who was present in the police station and only on such verification when the money was paid to Bimlesh Kumar Sharma, the raiding team arrested Bimlesh Kumar

Sharma and instituted the present case. He has further submitted that all the procedures prescribed under law were duly followed at the time of raid.

6. I have heard learned counsel for the parties and perused the record.

7. Regard being had to the nature of allegation and other facts and circumstances of the case, I am not inclined to grant pre-arrest bail to the petitioner. Accordingly, the application preferred under Section 438 of the Code of Criminal Procedure is rejected.

8. In case the petitioner surrenders and seeks bail, the same shall be considered on its own merits without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J)

Md.S./-

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