

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30393 of 2017

Arising Out of PS. Case No.-11 Year-2016 Thana- C.B.I CASE District- Muzaffarpur

Azaharuddin Beig @ Laddan Miya son of Md. Kudrush Miya, resident of
Ram Nagar, P.S. Siwan Town, District Siwan

... .. Petitioner/s

Versus

The C. B. I. through Superintendent of Police C. B. I. SC II New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Senior Advocate

Mr. Ranjeet Kumar, Advocate

For the Opposite Party/s : Mr. Bipin Kumar Sinha (SC,C.B.I.)

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
C.A.V. ORDER

9 18-10-2017

Heard learned counsel for the petitioner and the
learned counsel for the C.B.I.

Petitioner seeks bail in connection with C.B.I. Case
No. RC 11(s)/2016 pending in the Court of learned Special
Judge, C.B.I., Muzaffarpur registered for the offence punishable
under Sections 120(B) and 302/34 of the Indian Penal Code and
Section 27 of the Arms Act.

The prosecution case, as lodged by the informant,
Asha Yadav, is that on 13.05.2016 someone phoned her
husband, Rajdeo Ranjan on mobile. Thereafter, her husband
proceeded towards station road and when he reached near the
fruit market, some unknown professional criminals shot him
dead by silencer fitted gun.



Initially the case was registered as Siwan Town P.S. Case No. 362 of 2016 under Sections 302/120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act. During course of investigation by the State police, name of the petitioner has come to light on the basis of confessional statement of other co-accused. Thereafter, petitioner surrendered before the Court of learned Chief Judicial Magistrate, Siwan on 02.06.2016 and since then he is languishing in judicial custody. After completion of investigation, State police submitted charge-sheet against six accused persons on 20.08.2016, including the petitioner. Later on, the matter was handed over to the C.B.I. for investigation.

It has been submitted by the learned counsel for the petitioner that he is innocent and has committed no offence. His name surfaced on the confessional statement of co-accused, Rohit Kumar Soni and others before the police, which has no evidentiary value in the eye of law. He submits that no overt act has been committed by him and the Hon'ble Supreme Court has directed the C.B.I. to conclude the investigation within three months by order dated 17.10.2016 passed in Writ Petition(s) (Criminal) No(s). 132 of 2016 and the investigation is going on at snail pace by the C.B.I., as supplementary charge-sheet has



been submitted on 21.12.2016 stating that the CDR and hard-disks of the computer used by the deceased Rajdeo Ranjan and mobiles of the deceased and accused persons including the petitioner have been forwarded to the CFSL Hyderabad, New Delhi and Kolkata. He submits that again a supplementary charge-sheet dated 21.08.2017 has been submitted wherein further investigation has been kept open. He submits that the whole allegation alleged against the petitioner is false, concocted and imaginary. The call records investigated by the C.B.I. in supplementary charge-sheet dated 21.08.2017 shows that three mobiles were in possession of the petitioner, but except Idea mobile No. 9708373566, the two mobile nos. 9771075554 and 7279867029 did not belong to him and the call records of the other accused persons between 10.05.2016 and the alleged date of occurrence i.e. 13.05.2016 do not show that the other accused persons ever talked with the petitioner. He further submits that the Apex Court in its order dated 17.10.2016 as mentioned above at paragraph 3 of the concluding part of the order observed as follows:

“3. As the charge sheet has already been filed by the State police and further investigation is in progress by the CBI, the



accused persons who have been charge sheeted shall not claim any benefit for enlargement on bail under proviso to Section 167(2) of the Code of Criminal Procedure.”

In this connection, he relies on the judgment of the Apex Court in the case of **Sanjay Chandra Vrs. Central Bureau of Investigation** since reported in **(2012) 1 Supreme Court Cases 40** and submits that since investigation by the C.B.I. is going on at such a slow pace, therefore, balancing the valuable right of the liberty of an individual, privilege of bail may be granted to the petitioner. He submits that in view of the order passed by the Apex Court on 17.10.2016, petitioner is entitled for bail in the light of proviso to Section 167(2) of the Code of Criminal Procedure.

However, learned counsel for the C.B.I. vehemently opposes the prayer for bail stating therein that the petitioner was the mastermind to the entire occurrence and hatched a criminal conspiracy with Vijay Kumar Gupta, as one Smt. Badami Devi wife of Late Satyadeo Prasad had given top floor of her house on rent to one Virender Pandey. The said Virender Pandey had fraudulently managed to obtain her signature and claimed the



house and some land for which a civil suit is pending between Badami Devi and Virender Pandey. The granddaughter of Badami Devi, Sapna married to co-accused Vijay Kumar Gupta and accused Rohit Kumar Soni, who was good friend of the petitioner, introduced Vijay Kumar Gupta to the petitioner. The petitioner agreed to help the co-accused Vijay Kumar Gupta in vacating the illegal possession of the land from Virender Pandey, if the journalist of “Hindustan” daily newspaper, Rajdeo Ranjan, who had been writing articles against the politicians in his newspaper, would be eliminated. The said co-accused Vijay Kumar Gupta then took help of other co-accused. During investigation by the State police, co-accused Rohit Kumar Soni had confessed that the petitioner gave Rs. 15,000/-, a pistol and six rounds and promised him to give 2 kathas of land for eliminating, the deceased Rajdeo Ranjan. He submits that the co-accused Vijay Kumar Gupta had later given the said pistol used in killing to Sonu Kumar Gupta, his cousin, which was recovered in the house of Sonu Kumar Gupta and on examination the same matched with the gun shot received by the deceased. He submits that co-accused Rohit Kumar Soni has confessed his guilt of killing the deceased Rajdeo Ranjan and a number of prosecution witnesses have alleged involvement of



the petitioner to be the mastermind of the entire occurrence. Moreover, petitioner had even refused for his Narco Analysis Test. He submits that during investigation prior to the alleged occurrence, on 08.05.2016, co-accused Vijay Kumar Gupta talked to the petitioner. On 09.05.2016, co-accused Rohit Kumar Soni had talked with the petitioner on his mobile and some of the prosecution witnesses have confirmed that the petitioner was using all the three mobiles as investigated in the supplementary charge-sheet by the C.B.I. on 21.08.2017. He submits that so far as paragraph 3 of the order of the Apex Court is concerned, the Apex Court has specifically held that chargesheeted accused persons shall not claim any benefit for enlargement of bail under proviso to Section 167(2) of the Code of Criminal Procedure. He submits that proviso to Section 167 of the Code of Criminal Procedure is a procedure when investigation cannot be completed in twenty-four hours then the police officer making investigation shall forthwith transmit the case diary with its entries to the learned Magistrate. Sub-section (2) of Section 167 of the Code of Criminal Procedure is the power of the Magistrate for detention of the accused in custody. Explanation-1 of the said proviso is the power of the Magistrate to detain the accused so long he does not furnish bail. Hence,



the petitioner being chargesheeted by the State police and in further investigation by the C.B.I., his involvement has been found, petitioner does not deserve the privilege of bail. He further submits that the petitioner, a veteran criminal, is an aide and associate to politician and veteran criminal Shahabuddin and himself is an accused in about 25 cases in which four cases are for heinous offences like murder, others for serious offences like extortion, and under Arms Act. The counsel refers to paragraph 18 of his counter affidavit that prosecution has full reason to believe that the petitioner will not be available to face trial and will tamper with the evidence and threaten the prosecution witnesses.

Considering the facts and circumstances and the materials on record and taking into consideration that after investigation by the State police, petitioner has been chargesheeted finding his complicity in the alleged offence. The C.B.I. in its investigation has also found that the petitioner was a mastermind who hatched a criminal conspiracy along with co-accused to eliminate the 'Hindustan' newspaper Bureau Chief, Rajdeo Ranjan, who was printing articles and news against the politicians, and that since further investigation is going on by the C.B.I. and the C.B.I. apprehends that the prosecution



witnesses would be induced, threatened or tampered with, I am not inclined to grant the privilege of bail to the petitioner. This application is, accordingly, rejected.

(Nilu Agrawal, J.)

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