

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21985 of 2017

Arising Out of PS.Case No. -15 Year- 2013 Thana -C.B.I CASE District- MUZAFFARPUR

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Rajeev Kumar @ Rajeev @ Pramod Son of Late Surender Pathak, Resident
of Village- Bania, Police Station- Saraiya, District- Muzaffarpur.

.... Petitioner

Versus

The Union of India Through C B I.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Pramod Rajpati, Advocate.

For the Opposite Party : Mr. Bipin Kumar Sinha, CBI.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 05-07-2017 Heard both sides.

The petitioner apprehends his arrest in R.C. 15(A) of 2013, corresponding to Spl Case No. 10 of 2013 registered for the offences punishable under Sections 420 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioner submits that prayer for anticipatory bail of the petitioner was earlier rejected vide order dated 18.07.2016 passed in Cr. Misc. No. 14114 of 2016 but the petitioner again filed this petition for anticipatory bail because some material facts which were collected during course of investigation, were not brought on record inadvertently but the petitioner got the records and filed the anticipatory bail petition.

It is submitted that CBI after investigation submitted



charge sheet on 30.06.2014 under Sections 420 and 120(B) of the Indian Penal Code but learned Special Judge, CBI-III Patna took cognizance against Sumesh Mahto @ Sunil and not against the petitioner. The Special PP of CBI filed petition that the CBI submitted charge sheet against Sumesh Mahto @ Sunil and others also but due to inadvertence in the cognizance order name of only Sumesh Mahto @ Sunil is mentioned, therefore, summons be also issued to the petitioners. Learned Special Judicial Magistrate, CBI, Muzaffarpur stated in the order dated 11.12.2014 that since the cognizance has already been taken on 07.08.2014 by the Special Judge, CBI III, Patna the Court of Special Judicial Magistrate, CBI, Muzaffarpur has no jurisdiction to interfere in the order already passed by the superior court. Then learned Special Judicial Magistrate, CBI, Muzaffarpur vide order dated 13.02.2015 stated that the cognizance of the offence is taken and if, the name of one of the accused is not mentioned in the order taking cognizance it is a mere irregularity and accordingly directed to issue summons to the accused persons named in the charge sheet. It is further submitted that this fact has not been considered at the time of hearing the anticipatory bail petition of the petitioner.

From perusal of the records it appears that the petitioner was in possession of all the documents on 18.07.2016. Even the



petitioner moved this Court for grant of anticipatory bail only after issuance of summons. Section 190 of the Code of Criminal Procedure clearly stipulates that the cognizance is taken of the offence and not against the offenders, if due to inadvertence the charge sheet is submitted against the accused persons and name of any of the accused persons is not mentioned, it is a mere irregularity. There are sufficient materials against the petitioner that the mobile from which the call was made for asking the bribe belongs to the petitioner.

Considering the facts aforesaid I do not find any fresh material to reconsider the anticipatory bail of the petitioner. Accordingly, the same is again rejected.

(Prabhat Kumar Jha, J.)

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