

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41535 of 2017

Arising Out of PS.Case No. -27 Year- 2014 Thana -ECONOMIC OFFENCES, BIHAR District-
PATNA

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1. Ajay Kumar Jha, Son of Late Sushil Kumar Jha, Resident of Flat No.202
(B) Kalindi Girija Garden, New Punaichak, P.S.- Shastri Nagar, District-
Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through Economic Offence. null null

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Pramod Mishra

For the Opposite Party/s : Mr. Vishwanath Pd. Sinha (Eou Unit)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 19-12-2017

Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Special Case No. 47 of 2014 arising out of Economics P.S. Case No. 27 of 2014 instituted for the offence under Section-385 of the Indian Penal Code and Section-7 of Prevention of Corruption Act.

Counsel for the petitioner has submitted that earlier anticipatory bail was not disposed off on merit by this court by order dated 02-02-2015 passed in Cr. Misc. No. 32473 of 2014. The charge sheet has now been submitted in the case. The petitioner apprehends his arrest.

The petitioner earlier moved anticipatory bail petition before the court below after disposal of his anticipatory bail petition by Hon'ble Court vide order dated 02-02-2015 passed in Cr. Misc. No. 32473 of



2014. The anticipatory bail was disposed off with direction to the petitioner to move before the learned Special Judge, Vigilance-II, Patna who will pass order in view of direction given by the Hon'ble Supreme Court in the case of Amresh Kumar vs State of Bihar and others reported in 2014(3) PLJR 314 (SC). The court below has rejected the prayer of petitioner of anticipatory bail by order dated 27-03-2015 on the ground that petitioner has no apprehension of arrest. Thereafter, the petitioner has after submission of charge sheet filed fresh anticipatory bail petition before the learned Special Judge, Vigilance which was rejected on 01-08-2017 on the ground that charge sheet has already been submitted against this petitioner.

Counsel for the petitioner has submitted that this anticipatory bail petition is maintainable till the petitioner has not been arrested and he has apprehension. He has relied upon a decision of Hon'ble Supreme Court reported in 2010 (1) SCC page 684 (RAVINDRA SAXENA VS. STATE OF RAJASTHAN) wherein the Hon'ble Supreme Court has held that anticipatory bail can be granted any time so long the applicant has not been arrested. The petitioner has also relied on a decision of our Hon'ble Court reported in 2006(2) PLJR 676 (Anirudh Prasad @ Sadhu Yadav Vs. The State of Bihar).

Learned counsel appearing for Economic Offences Unit has submitted that anticipatory bail of the petitioner was earlier rejected by this court, by order dated 02-02-2015 passed in Cr. Misc. No. 32473 of 2014. Thereafter his anticipatory bail petition has been rejected twice



by the court below. The charge sheet has already been submitted.

The report was called for from the court below about the current status of case wherein the court below has submitted that charge sheet has been submitted in the case on 08-02-2017 against this petitioner. Thereafter, cognizance has been taken against the petitioner and the case is pending for his appearance.

Counsel for the petitioner has submitted that till date, no process u/S 82 & 83 Cr.P.C. has been issued to which counsel for Economic Offences Unit does not make any denial.

In the written report, there is allegation against this petitioner that he used to demand illegal gratification from PDS dealers. The written complaint was given by one Dharmendra Singh for demanding illegal gratification from PDS dealers and sting operation was conducted by the complainant against the petitioner for his mala fide conduct and CD was prepared on the alleged Sting Operation and the same was transmitted to the department of the petitioner and the department authorized one Sanjay Kumar DDC for departmental inquiry and show cause was issued to the petitioner. The petitioner replied all the allegation and thereafter inquiry officer has prepared written report and the same was sent for lodging FIR.

It has been submitted that the petitioner is an officer of Additional Collector rank. He has fully cooperated during entire investigation. The charge sheet has been submitted. It has further been submitted that the learned Vigilance Judge has mentioned in the



impugned order that FSL report of CD has been received, wherein it is mentioned that both voices are probably similar.

In such circumstances, this court finds that investigation has already been completed in this case. The petitioner has cooperated in investigation and charge sheet has now been submitted. There is no chance of petitioner's absconding.

In such circumstances, prayer for anticipatory bail is allowed and it is ordered that the petitioner named above in the event of his arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Special Case No. 47 of 2014 arising out of Economic Offence Unit P.S. Case No. 27 of 2014 to the satisfaction of learned Special Judge, Vigilance-II, Patna subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bond of the petitioner and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

The petitioner will cooperate in the trial and will remain



present on each and every date and will not attempt to tamper the witness otherwise his bail bond will liable to be cancelled.

(Sanjay Priya, J)

A.K.V./-

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