

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36281 of 2017

Arising Out of PS.Case No. -44 Year- 2017 Thana -AGAMKUAN District- PATNA

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Dinesh Kumar Yadav, S/o Bhuneshwar Yadav, R/o Village-Baskhora, Police Station- Marauna, District- Supaul, presently C/o Ashok Kumar, Mahendru Post Office, P.S.- Sultanganj, Patna- 800004.

... Petitioner

Versus

The State of Bihar through Vigilance, Patna.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Advocate

For the Opposite Party/s : Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 10-08-2017

Heard learned counsel for the petitioner and

the learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Agamkuan P.S. Case No. 44/2017 corresponding to Vigilance Special Case No. 11/2017 for the alleged offences under Section 419, 420, 467, 468, 471, 120B/34 of the Indian Penal Code, Section 66D of the I.T. Act and Section 7/8/9/13(1)(c)(d)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988, pending in the court of learned Special Judge, Vigilance, 1st, Patna.



The petitioner is not named in the F.I.R. Learned Senior counsel representing the petitioner submits that as per the F.I.R., when the raid was conducted three boys were apprehended and they disclosed the entire *modus operandi* by which the question papers were being leaked and money were being collected from the merit-less candidates.

Learned Senior counsel submits that so far as the present petitioner is concerned, there is no cogent material against him to implead him in the present case save and except the confessional statement of co-accused Shilbhadra Gupta. According to learned Senior counsel, the cash recovered from the house of the petitioner was his money which he had arranged for treatment of his wife.

On the other hand, learned Additional Public Prosecutor for the State opposes the prayer for bail and has drawn my attention towards the facts and submissions noted in the impugned order referring the case diary. According to him, the learned Sessions Judge has taken note of the materials which have come in



course of investigation. In para 139 of the case diary, a sum of Rs. 1,40,000/- in cash has been shown recovered from the house of the petitioner and the answer of the examination paper was found in the mobile phone of this petitioner. Further in para 13 of the case diary, from page 212 to 2015, the confessional statement of the petitioner before the Investigating officer has been recorded in which he has confessed his guilt. It has also come during investigation that this petitioner was in contact with the other accused persons of the case and they were doing setting work in the examination after taking huge money from the students. The confessional statement of co-accused Shilbhadra Gupta also indicates active participation of this petitioner and these facts have come in course of investigation.

When the matter was called out, learned Senior counsel for the petitioner submitted that in the facts of the case the case diary should be called for, however, after going through the impugned order particularly the relevant paragraphs in which the materials available in the case diary have been referred by



the court below and the same have been relied upon by learned Sessions Judge while rejecting the prayer for bail, this Court instead of calling of the case diary thought it just and proper to rely upon the facts noted in the impugned order with reference to the case diary. This opinion of the court to rely on the same is because of the fact that the petitioner has not made any statement or submission by saying that these statements with reference to the case diary, as recorded in the order of the learned Sessions Judge, is an error of record committed by the learned Sessions Judge.

Learned Additional Public Prosecutor for the State opposes the prayer for bail and pointed out that the active participation of this petitioner has been noticed in course of investigation which are available in the case diary and the learned Sessions Judge has rightly referred the same.

In the facts and circumstances stated hereinabove, considering the seriousness of the allegation and the facts mentioned in the impugned order with reference to the case diary, calling for the case diary once again will be a sheer wastage of



time. Hence, this court is not inclined to grant regular bail to the petitioner because of the materials already suggesting his active participation.

Accordingly, prayer for bail of the petitioner is hereby rejected.

(Rajeev Ranjan Prasad, J.)

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