

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47218 of 2017

Arising Out of PS.Case No. -111 Year- 2016 Thana -VIGILANCE District- PATNA

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1. Dr. Shiv Kumari Prasad aged 65 Years, W/o Shri Dr. Ashok Kumar Paswan, R/o Mohalla- Hanuman Nagar (Kankarbag), P.S.- Patrakar Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Senior D.S.P. Police, Vigilance Investigation Bureau, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sharma

For the Opposite Party/s : Mr. Sri Dilip Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 12-10-2017

Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Vigilance P.S. Case No. 111 of 2016 giving rise to Special Case No. 61 of 2016 instituted for the offence under Sections-408, 409, 420, 467, 471, 120-B/34 of the Indian Penal Code and 13(2) read with Sections-13(1)(d) of Prevention of Corruption Act, 1988.

It has been submitted on behalf of the petitioner that she took charge of Superintendent NMCH, Patna on 17-07-2010 from Professor Captain N.P. Yadav and to that effect, the petitioner informed to the Director in Chief Health Services on 17-07-2010.

From the written report itself, it is apparent that an agreement for purchase of CT Scan Machine was entered into between Dr. Santosh Kumar the then Medical Superintendent, NMCH with the



representatives of Messers Siemens Company Ltd. in they year, 2006 for a consideration of Rs. 1,35,00,000/-. It is also mentioned in the written report that as per agreement, Santosh Kumar paid 80% of the consideration amount to the Siemens company. The machine which was supplied was not working properly but without being satisfied with the working of the machine, 80% of the consideration amount was paid to the Siemens company by Dr. Santosh Kumar. The Siemens compaly neither repaired the machine nor provided any training.

The allegation against this petitioner is that without proper training and also appropriate repairing of the machine, she made payment of 20% of the rest amount of the machine.

Counsel for the petitioner has pointed out statement made in paragraph-6 of the petition, wherein it has been mentioned that after decision taken on 24-01-2011, the Siemens Company made the CT Scan Machine functional on 11-02-2011. The Siemens Company also gave training of 34 days in place of 30 days as per agreement. The petitioner was reported about functioning of CT Scan machine by Head of Department, Radiology Depaartment NMCH, on the basis of log book. After four and half months functioning of CT Scan machine, the petitioner paid rest of the amount of Rs. 22,72,500/- on 22-07-2011 as per agreement and decision dated 24-01-2011 as contained in Annexure-4. It is also submitted that the petitioner after her posting, wrote letter dated 31-07-2010 to the Siemens Company Ltd to remove defect within 15 days and to take steps to see CT Scan Machine



becomes functional. The Head of Department Radiology NMCH wrote letter to the petitioner on 12-04-2011 about CT Scan Machine becoming functional.

In this manner, petitioner has taken bona fide action for removing the defect of the CT Scan Machine which was installed as per agreement in the year, 2006 after entering into agreement with Siemens Company and Dr. Santosh kumar.

Counsel for the Vigilance opposed the prayer for anticipatory bail and submitted that witnesses in case diary have made allegation against the petitioner.

In facts and circumstances stated above, prayer for anticipatory bail is allowed and it is ordered that the petitioner named above in the event of her 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 Vigilance P.S. Case No. 111 of 2016 giving rise to Special Case No. 61 of 2016 to the satisfaction of learned Special Judge, Vigilance-Ist, 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 petitioners and (3) if petitioner tamper 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.

(Sanjay Priya, J)

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