IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.62376 of 2017

Arising Out of PS.Case No. -207 Year- 2014 Thana -PATNA CITY CHOWK District- PATNA

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Saurabh Tekriwal, son of late Sheo Kumar Tekriwal, resident of Mohalla Jhauganj, P.S. Chowk, Patna City, Distt. Patna. Proprietor Sri Ajad Transport Company Private Limited, Patna City.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Anil Kumar Roy, Advocate.
For the Opposite Party/s : Mr. Harendra Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 20-12-2017 Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in **Chowk P.S. Case No. 207 of 2014** instituted for the offence under Sections 420, 406, 120(b)/34 of the Indian Penal Code, Sections 81(1)(C), 81(2) and 81(4) of Bihar VAT Act.

The allegation against the petitioner in the written report is that an inspection of the premises of the petitioner who is Transporter was carried out by the officials of the Commercial Tax Department on 12.09.2014. During course of inspection, certain items/goods, (regarding which, no bill, bilti, challans, suvidha etc.) was seized under Sections 61(2) read with Sections 56 (4) (a) of the Bihar VAT Act on the ground of violation of Section 61(1) of the VAT Act. The transporter was entrusted with the charge of the seized items with the directions that he will not transfer or withdraw the said seized items. One Sri Anup Kumar, the then Commercial Tax Assistant Commissioner, Patliputra Circle was authorized for the conclusion of the inspection proceedings. After hearing, the aforesaid Anup Kumar passed an order dated 31.10.2014, under Sections 56(4)(b) of the Bihar VAT Act whereby a sum of Rs.65,35,515/- was imposed as fine against the petitioner (Rs.15,84,412/- towards godown No. 1, 2 and 3 located at Haziganj and Rs. 48,51,093/- towards godown No. 4, 5 and 6 located at Dhanuki More and Sheetla Mandir). Demand to this effect was sent to the transporter (petitioner) on 8.11.2014 but no payment was made by the transporter from 8.11.2014 to 24.11.2014. In the meantime, the department got some information that the transporter is disposing off the seized goods. The official on the direction of Commercial Tax Commissioner-cum-Secretary, verified the seized goods kept in the godowns of the transporter on 25.11.2014, but the seized goods were not found in the godown.

It is mentioned in the First Information Report that the transporter has disposed off the seized items without there being any release order from the competent authority. In this manner, the petitioner has defalcated the government money by disposing off the seized goods whereas he was directed to keep those goods in safe keeping. It is alleged that transporter has deliberately disposed off the said goods which makes it a case of forgery, criminal breach of trust and conspiracy leading to defalcation of the government revenue.

Learned counsel for the petitioner has submitted that he is ready to make payment of 25 per cent of the fine imposed.

This Court is not satisfied with the submission of the learned counsel for the petitioner.

There is specific allegation of committing serious overt act against the petitioner as mentioned in detail in the written report.

Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

Prayer for anticipatory bail of the petitioner stands rejected.

(Sanjay Priya, J)

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