IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39414 of 2014

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Kaulesh Kumar @ Mukesh Kumar Son of Late Ishwari Singh Resident of Kumar Mansingh Path, Near Doon Public School, Fatehpur House, Chitragupta Nagar, P.S.-Patrakar Nagar, District-Patna.

.... Petitioner/s

Versus

The Union of India Through Director, CBI.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Binodanand Mishra
For the Opposite Party/s : Mr. Bipin Kumar Sinha (SC CBI)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

5 02-11-2017 The petitioner is an accused of Special Case No. 04 of 2009 (R.C. No. 1 (A) of 2009) registered for the offences under sections 7, 8, 10, 12, 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. The petitioner is aggrieved by order dated 07.02.2013 passed by the learned Special Judge, CBI-III, Patna, whereby he has rejected the petition filed by the petitioner for the release of the seized amount, amounting to Rs. 53,49,000/- in favour of the accused-petitioner.

Heard the learned counsel for the petitioner and the learned counsel for the C.B.I.

As per the case of the prosecution in the name of securing employment of young persons in the C.R.P.F. through back door the petitioner dubbed them and received huge amount from them and it was found that petitioner Mukesh Kumar was in regular contact with Sri Pushkar Singh, IG (BS) (incharge of recruitment process), Sri Yadvender Singh, Commandant 132 Bn. CRPF (Presiding Officer of Gaya Board), Sri B.S. Sidhu, Commandant, 134 Bn. CRPF (Presiding Officer of Recruitment Board of CRPF Begusarai) as conversation of their mobile phones has been recorded. The amount for which release petition has been filed was the amount collected by the candidates on the plea of providing job in the CRPF. The petitioner was in regular contact with the officials of the CRPF and others for appointment of his candidates and collected money from the candidates and that amount was seized from his house.

Submission on behalf of the petitioner is that the petitioner has sold flat and the amount is of that sale and further the petitioner has executed an agreement to sale of vehicle and as such the amount should be released. The C.B.I. has not objected the petition of release before the court below but inspite of that petition has been rejected.

On behalf of the C.B.I. prayer is opposed and it is submitted that the petitioner is the main culprit of the offence and he has collected money from the candidates for their recruitment and the register was also seized from his house in which details of payment is mentioned. In the counter affidavit vide paragraphs- 3, 7 and 8 prayer for release has been opposed.

Having considered the submissions urged at the Bar, going through the record and the impugned order, prima-facie it reveals that the seized amount is the collected money for recruitment. From the sale deed dated 02.05.2009 it reveals that the flat was sold and the amount has already been returned to the petitioner. This amount prima-facie is different amount collected from the candidates for their recruitment. The learned court below has rightly rejected the petition holding that at this stage it is not proper to release the said amount in favour of the accused-petitioner and he can renew his prayer after conclusion of trial. The prosecution was directed to keep the seized amount in the Bank account. No gross illegality has been pointed out on behalf of the petitioner in the impugned order touching the court's jurisdiction or impropriety. Further, this Criminal Miscellaneous has been filed on 17.09.2014 after much delay. I do not find cogent explanation on the record for so much delay in filing the present Criminal Miscellaneous with the same plea as has been taken by the petitioner in the court below The application, in my view, is not bonafide and it is accordingly hereby dismissed.

(Jitendra Mohan Sharma, J)

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