

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36956 of 2017

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

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Anand Sharma Son of Late Radhe Shyam Sharma Resident of Village -
Korji, P.O.-Mahmadpur, P.S.-Phulwarisharif, Via-Khagaul, District-Patna-
801105.

.... Petitioner/s

Versus

The State of Bihar Through Vigilance

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.

Mr. Ashish Giri, Adv.

For the Opposite Party/s : Mr. Sri Ajay Mishra, A.A.P.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
C.A.V. ORDER

9 28-11-2017 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State of Bihar.

Petitioner is languishing in judicial custody since
11.02.2017 in connection with Special Case No. 11 of 2017
arising out of Agamkuan P.S. Case No. 44 of 2017 for offences
punishable under Sections 419, 420, 467, 468, 471, 34 of the
Indian Penal Code. Later on Section 66 (D) of the Information
Technology Act and Section 7/8/9/13(1) (a) (b)(e) read with
Section 13 (2) of the Prevention of the Corruption Act, 1988 was
added.

The prosecution case, as lodged by the informant police
personnel, is that on information that one Pawan Kumar and Atul



Ranjan Sinha, who were residing in the house of one Dina Nath Singh situated in Mohalla-Kanti Factory Road, Mahatma Gandhi Nagar, were cheating and circulating question papers and answer-sheets of the examination being held by the Bihar Staff Selection Commission (hereinafter referred to as the 'B.S.S.C.') for appointment on the different post in different departments in Government of Bihar. The informant along with other police officials raided the room occupied by the said Pawan Kumar and Atul Ranjan Sinha and apprehended three persons who were involved in the racket of leaking question papers and transmitting answers to the examinees through Whatsapp, blue tooth and other electronic devises after taking hefty amount from the merit less candidates. From the said room admit cards, battery of blue-tooth printers, laptop and original mark-sheet and other articles were recovered. Accordingly, the investigating agency was setup in motion and investigation was conducted by the S.I.T.

Mr. Y.V. Giri, learned senior counsel for the petitioner submits that the petitioner was neither apprehended on the spot nor there was any evidence in participation of leakage of questions. He submits that his name surfaced only on the confessional statement of co-accused Parmeshwar Ram who was the Secretary of the B.S.S.C and his own confessional statement



before the police which was taken under coercion for which the petitioner has later on informed in writing to the Special Judge, Vigilance, 1st Patna in his letter which is Annexure-3 that his signature was obtained on blank paper by the police. He further submits that during course of investigation S.M.S. sent by the mobile of the petitioner to Secretary B.S.S.C. Parmeshwar Ram has been found to be the basis of the complicity of the petitioner with the aforesaid offence. The details of the said S.M.S. which is at para-62 of the case diary so far as the same has been sent by the petitioner all relates to A.N.M. candidates and not B.S.S.C. examinees as they have been sent prior to the date of examination of B.S.S.C. Intermediate Level Examination which was in four phases between 29.01.2017, 05.02.2017, 19.02.2017 and 26.02.2017. He further submits that there was no leakage of question papers by the petitioner. The confessional statement of the petitioner that he was known to the Secretary Parmeshwar Ram through one Dharmendra Kumar who also was a beneficiary to the hefty amount taken by the examinees has not been prosecuted as yet. It is further submitted that the petitioner had talked or S.M.S. Aman Preet Singh Brar who was the supplier of O.M.R. sheet is also not true. He submits that no money has been recovered nothing disproportionate asset has been found during



investigation from the petitioner neither any candidate has alleged involvement of the petitioner either for leakage of paper or receiving hefty amount from candidates. It is further asserted that neither any arrested person or any person has named the petitioner of his involvement in the aforesaid offence. In view of the period of custody undergone by the petitioner a sympathetic consideration be given and in this regard he refers to the case of **Laloo Prasad @ Laloo Prasad Yadav Vs. State of Jharkhand**, since reported in **(2002) 9 SCC 372** stating therein that bail may be granted to the petitioner imposing conditions. He further also relies on the judgment in the case of **Sanjay Chandra Vs. Central Bureau of Investigation**, since reported in **(2012) 1 SCC 40** stating therein that even with relation to 2G scam case wherein 17 persons had been looked for the said scam, held that since lengthy trial may prolong beyond maximum sentence considering the hardship caused to individual on account of detention before conviction, had granted bail to the accused persons subject to certain conditions. He submits that charge-sheet has already been submitted and there is no allegation of tampering of the prosecution witnesses by the petitioner. Counsel for the petitioner undertakes that he would comply and adhere to all conditions imposed if he be released on bail. The petitioner was just a land



broker involved in sale and purchase of land since last many years and had sold a number of plots to Parmeshwar Ram, Secretary BSSC near AIMS, Patna.

However, Mr. Ajay Mishra, learned counsel appearing on behalf of the State (S.I.T.) vehemently opposes the prayer for bail stating therein that although the petitioner has not been named in the F.I.R. but during course of investigation the petitioner has been found to be involved in the commission of the aforesaid offence. He submits that in the first phase of examination on 29.01.2017 out of 150 question 123 had leaked out and in the second phase on 05.02.2017 out of 150 question 71 answers were leaked out and the whole gamut was to benefit the merit-less candidates from whom hefty amount was taken by large number of persons including the petitioner for securing jobs to them. He submits that during course of investigation various paragraphs of the case diary find the involvement of the petitioner in the said offence. Paragraph 62 and 128 of the case diary details as many as 14 S.M.S. by the petitioner to Parmeshwar Ram and all were not only for the post of A.N.M. He further submits that the confessional statement of the petitioner at para-36 of the case diary also shows the involvement of the petitioner with Parmeshwar Ram regarding B.S.S.C. candidates. Para-82 of the



case diary also shows the complicity of the petitioner as per the details from the mobile of the petitioner and that the petitioner had also found to be in contact with Aman Preet Singh Brar, O.M.R. supplier. He submits that the case involves a number of accused and complex modus operandi and the petitioner is alleged to be part of the said so called B.S.S.C. scam. Counsel for the State further points out that active participation of this petitioner has been noticed during the course of investigation which are available in the case diary.

Considering the facts and circumstances and the materials on record and the seriousness of the allegations, I am not inclined to grant privilege of bail to the petitioner in connection with Special Case No. 11 of 2017 arising out of Agamkuan P.S. Case No.44 of 2017, pending in the court of learned Special Judge, Vigilance 1st Patna.

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

(Nilu Agrawal, J)

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