

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10455 of 2018

Arising Out of PS.Case No. -7 Year- 2002 Thana -VIGILANCE District- PATNA

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Anil Kumar S/o Ram Niwas Upadhyay, R/o Village- Mathia, P.S.-
Ramgarh, District- Kaimur at Bhabua Presently Resident at R/o E2/118,
Kankarbagh Colony, Kankarbagh Housing Emaaigi Patna, P.S.-
Kankarbagh, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through Vigilance, Investigation Bureau, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha, Advocate.

For the Opposite Party/s : Mr. Ramakant Sharma, L.O., I/C. Vigi

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 09-05-2018 Heard learned counsel for the petitioner and learned
counsel for the vigilance.

The petitioner apprehends his arrest in **Vigilance P.S.**
Case No. 07 of 2002 corresponding to Special Case No. 21(A)
of 2002 instituted for the offence under Sections 420, 465, 466,
467, 471, 477-A, 201, 109, 120B of the Indian Penal Code and
Sections 13(1)(d) read with 13(2) of the Prevention of Corruption
Act, 1988.

Learned counsel for the petitioner has submitted that
earlier the case has been quashed by this Hon'ble Court with
regard to co-accused Ashok Kumar Singh vide order dated
07.05.2007 passed in Cr. W.J.C. No. 352 of 2002. The petitioner



did not take proper step in the court below as after passing of the aforesaid order, it was considered that the entire case has been quashed. It has further been submitted that in fact aforesaid order passed by this Hon'ble Court was also affirmed in Appeal filed by the Vigilance before the Hon'ble Supreme Court as the Appeal filed by the vigilance was dismissed.

Learned counsel for the vigilance has appeared and submitted that prayer for anticipatory bail of the petitioner was earlier rejected on merit by this Hon'ble Court vide order dated 17.02.2003 passed in Cr. Misc. 32817 of 2002. This is second anticipatory bail application.

Learned counsel for the petitioner has relied upon a decision reported in (2010) 1 SCC 684 (Ravindra Saxena Vs. State of Rajasthan) and has argued that anticipatory bail application is maintainable till the accused is not arrested.

The Hon'ble Supreme Court in the aforesaid Judgment has given observation that Section 438 Cr. P.C. was introduced to enable the court to prevent the deprivation of personal liberty. It cannot be permitted to be jettisoned on technicalities such as "the challan having been presented, anticipatory bail cannot be granted". From the order dated 17.02.2003 passed by this Hon'ble Court in Cr. Misc. 32817 of



2002 it appears that the anticipatory bail of the petitioner was earlier rejected on merit.

Therefore, this Court is not inclined to entertain this second anticipatory bail application of the petitioner.

Prayer for anticipatory bail of the petitioner stands rejected.

It has been informed by the learned counsel for the petitioner that petitioner has also filed quashing application which is pending in this Court. The petitioner is at liberty to make appropriate prayer before the court where the quashing application is pending for interim relief, if any.

(Sanjay Priya, J)

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