

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.72652 of 2018

Arising Out of PS. Case No.-17 Year-2018 Thana- VIGILANCE

District- Patna

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Vikash Kumar Jaiswal son of Late Bishwanath Choudhary, resident of Village- Gokula, Post Office- Gokula, Police Station- Bausi, District- Banka.

... .. Petitioner/s

Versus

The State of Bihar Through Vigilance Bureau

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Prasad Singh, Adv

For the Vigilance : Mr. Deepak Sahay Jamuar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 20-12-2018 Heard Mr. Jitendra Prasad Singh, learned counsel

for the petitioner and Mr. Deepak Sahay Jamuar, learned

counsel for the Vigilance Department.

The petitioner seeks bail in anticipation of his

arrest in connection with Vigilance P.S. Case No. 17 of 2018

dated 18.04.2018 instituted for the offences under Sections

13(2) read with 13(i)(d) of the Prevention of Corruption Act,

1988.

One Suman Kumar (complainant) approached the

Vigilance Department with the complaint that the petitioner



in his capacity as Sub Divisional Officer (SDO) is asking for rupees twenty thousand for doing his work. On such complaint, preliminary enquiry was made and verification of the aforesaid complaint was sought to be made by the Department. The verifier visited the Office of the petitioner along with the complainant, where the complainant was told by the petitioner that he should meet his Clerk viz. Raj Kumar. After such verification, a trap was laid and tainted money was recovered from the possession of Raj Kumar who, though, has been stated by the petitioner to be his Clerk but in actuality, is a Peon. The complainant also *inter alia* stated that the aforesaid Raj Kumar, the Peon of the petitioner demanded rupees twenty thousands for the petitioner and rupees five thousands for him.

The learned counsel for the petitioner, however has submitted that there is no specific demand from the complainant and even in front of the verifier, the petitioner is only alleged to have directed the complainant to meet Raj Kumar in his Office. He has further submitted that he could not have otherwise also demanded money as he was sitting



in the company of his superior Administrative Officer. He has also submitted that if his Peon has played truant and has demanded money from the complainant, he cannot be prosecuted for the same. Since there is no demand and consequently no tainted money was recovered from the possession of the petitioner, no offence under Sections 13(2) read with 13(i)(d) of the Prevention of Corruption Act can be said to have been made out against the petitioner.

The learned counsel for the Vigilance Department, however, has opposed the grant of anticipatory bail of the petitioner on the premise that Raj Kumar had demanded money in the name of the petitioner and had collected money also in his name. Had it not been the case, the petitioner would not have directed the complainant in front of the verifier to meet Raj Kumar for the purposes of work, more so when the hearing of the matter had been completed on 16.04.2018.

Considering the accusation against the petitioner, I am not inclined to grant anticipatory bail to him. The prayer for anticipatory bail is rejected.



However, if the petitioner surrenders before the Court below and seeks bail, the Court below shall take into account that apart from the bald allegation of demand of rupees twenty thousands from the end of the petitioner, there is no other confirmation of the aforesaid demand and that nothing (tainted money) has been recovered from the possession of the petitioner, and shall pass orders in accordance with law without being prejudiced by the fact that the present anticipatory bail petition has not been entertained.

The petition is disposed of with the aforesaid observations.

(Ashutosh Kumar, J)

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