

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37310 of 2019

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

VINIT KUMAR @ VINEET, Aged about 49 years, Male, Son of Sri Suresh Kumar @ Suresh Chandra, Director of Confisec Pvt. Ltd. having registered office at C-1/39/14, Phaselll, GIDC, Naroda, Ahmedabad (Gujarat). At present residing at 12 Ratnam, Royal Crescent Bungalow, Opposite, New York Tower Thultej, P.S.- Vastrapur, Distt - Ahmedabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Vigilance Department, Bihar, Patna, through S.P. Vigilance, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shama Sinha
For the Opposite Party/s : Mr.Ajay Mishra

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 13-08-2019 Heard Mr. P.K. Shahi, the learned Senior counsel for the petitioner and Mr. Ajay Mishra, the learned Additional Public Prosecutor.

Petitioner seeks bail in Special Case No.11 of 2017, arising out of Agamkuan P.S. Case No.44 of 2017, registered under Sections 419, 420, 467, 468, 471 and 34 of the Indian Penal Code and under Section 66(D) of the Information Technology Act as well as under Sections 7/8/9/13(1) (a) (b) and (e) read with Section 13(2) of the Prevention of Corruption Act.

The gist of the allegation is that the informant got secret information that in the house of Dinanath Singh situated at Mohalla Kanti Factory Road, Mahatma Gandhi Nagar, Pawan



Kumar and Atul Ranjan Sinha were involved in getting meritless candidates passed through the competitive examination of Bihar Staff Selection Commission by adopting corrupt and illegal means. On such information, a raid was conducted and three persons, namely, Pawan Kumar, Bipin Kumar and Navneet Kumar were arrested. Many electronics gazettes, mobile phones etc. Were recovered and on their disclosure that they in collusion with Atul Ranjan Sinha, Gorelal @ Kaushik, Bhola @ Nitesh and others used to get question papers before commencement of the examination and they used to transmit the same through electronic gazettes to the candidates who had paid money to them and on such the case was instituted and investigation started. During the investigation, the names of the petitioner and others including the staff of Bihar Staff Selection Commission also transpired and it was found that they all were involved in getting the question paper leaked before commencement of examination.

Mr. P.K. Shahi, the learned Senior counsel appearing on behalf of the petitioner submits that petitioner is owner of the printing press. The petitioner had earlier moved before this Court in Cr. Misc. No.20500 of 2017 but the same was rejected by this Court vide order dated 03.07.2017. The petitioner moved



before the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No (s).5896/2017 which was dismissed as withdrawn. The petitioner again moved this Court for grant of regular bail vide Token No.096583. Cr. Misc. No.1259 of 2018 which was listed but the same was dismissed due to non-removal of the defects. The petitioner again moved this Court by filing Cr. Misc. No.9156 of 2018 which was also dismissed vide order dated 04.05.2018. The petitioner again filed Special Leave to Appeal (Crl.) No(s).6131 of 2018 and notice was issued to the State of Bihar. The petitioner was suffering from typhoid and depression for several months. Petitioner was permitted to get medical treatment in AIIMS, Delhi. Special Leave to Appeal (Crl.) No(s).6131 of 2018 could not be heard till 03.05.2019 and during the pendency of Special Leave to Appeal (Crl.) No(s).6131 of 2018, six months period granted by the Hon'ble Court for completing the trial vide order dated 04.05.2018 and modified by order dated 18.07.2018 expired and in this light of the new development, petitioner again withdrew Special Leave to Appeal (Crl.) No (s).6131 of 2018 and filed the present bail petition. Mr. Shahi, the learned Senior counsel further submits that Ajay Kumar @ Ajay Kashyap has been granted bail vide order dated 10.07.2019, passed in Cr. Misc. No.72651 of 2018.



Ajay Kumar was the employee of the petitioner. Petitioner is the owner of the printing press where question papers of the BSSC examination were printed. The petitioner is in jail since 21.02.2017. It is further submitted that the charge sheet was submitted against the petitioner and other accused persons on 20.05.2017 but till today charges have not been framed. A report was called for from the Special Judge, Patna with regard to the stage of trial and the Special Judge reported that the case is still pending for framing of charges and many petitions of the accused persons for their discharge are still pending. It is further submitted that the petitioner is suffering from different ailments. The prayer for bail of the petitioner was earlier rejected with a direction to the trial court to conclude the trial within six months but the trial has not yet commenced. There are more than 100 prosecution witnesses and many documents are to be brought on record. The Special Judge reported that if the prosecution cooperates, two years time will be taken for conclusion of trial from the date of framing of the charge. Ajay Kumar was granted bail as he remained in jail for about 2½ years. The petitioner deserves bail.

The learned Additional Public Prosecutor opposed the prayer for bail and submitted that the petitioner moved before



the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No (s). 5896/2017 and the Hon'ble Supreme Court after some arguments allowed the petitioner to withdraw Special Leave to Appeal (Crl.) No (s). 5896/2017 and accordingly the same was dismissed as withdrawn. Again the petitioner moved before the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.6131/2018 and the same was also withdrawn with liberty to move before this Court after new developments. Withdrawal of SLA after some arguments amounts to dismissal of the SLA refusing to grant bail to the petitioner and, therefore, in view of this fact that the prayer for bail of the petitioner was rejected by the Hon'ble Supreme Court, this Court should not grant bail to the petitioner keeping in mind the doctrine of judicial discipline.

Perused the records. The prayer for bail of the petitioner was twice rejected by this Court. Petitioner is owner of the printing press and it transpires during the course of investigation that the printed question papers were leaked before commencement of the examination. Ajay Kumar @ Ajay Kashyap, one of the accused, was employee of the petitioner and his case stands almost on similar footing as that of the petitioner. From perusal of the order dated 10.07.2019, passed in Cr. Misc. No.72651 of 2018 it appears that Ajay Kumar @ Ajay



Kashyap was granted bail on consideration that he remained in jail for about 2½ years and the trial has not yet commenced. The Special Judge reported that at least two years time will be taken for conclusion of the trial after framing of charge but even charges have not been framed. Although the charge sheet was submitted against the accused persons on 20.05.2017 but it appears that the prayer for bail of the petitioner was earlier rejected by the Hon'ble Supreme Court and in this view of the fact and in view of the law laid down by the Hon'ble Supreme Court in Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav, reported in (2005) 2 SCC 42 that once the prayer for bail was rejected by the superior court, this Court is bound by doctrine of judicial discipline and, therefore, I am not inclined to enlarge the petitioner on bail.

Accordingly, the prayer for bail of the petitioner is rejected.

(Prabhat Kumar Jha, J)

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