

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1196 of 2019

Arising Out of PS. Case No.-31 Year-2019 Thana- NTPC KHAIRA District- Aurangabad

RAJNISH KUMAR RANJAN Son of Mahendra Tiwari Resident of Village -
Gosaipur, P.S. - Nokha, District - Rohtas.

... .. Petitioner

Versus

1. The State of Bihar, through the Director General of Police, Patna, Bihar.
2. The Superintendent of Police, District - Aurangabad.
3. The S. H. O., P.S. - NTPC, Khaira, District - Aurangabad.
4. The Investigating Officer, NTPC Khaira P.S. Case No. 31/2019.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ansul, Advocate Mr. Anuj Kumar, Advocate
For the Respondent-State:		Mr.M. Nasrul Huda Khan, SC-1 Mr. Fazle Karin, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 19-08-2019

The sole defect, as pointed out by the stamp reporter,
is ignored.

2. Heard Mr. Ansul, learned counsel for the
petitioner and Mr. Fazle Karin, learned assistant counsel to SC-1
for the State.

3. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner for
directing appointment of an independent investigating agency to
investigate NTPC Khaira P. S. Case No.31 of 2019 dated
30.04.2019 registered under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016 and NTPC Khaira P. S. Case No.32 of 2019
dated 30.04.2019 instituted under Sections 342, 223, 224 read with



34 of the Indian Penal Code, 13(2) of the Prevention of Corruption Act, 1988, Section 3(2)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 50(c) of the Bihar Prohibition and Excise Act, 2016.

4. Mr. Ansul, learned counsel appearing for the petitioner submitted that the petitioner has been framed in the case by the SHO of NTPC Khaira Police Station with vested interest. He contended that a bare listening of the audio clips would show that no where the petitioner was involved in asking for money rather it were the accused persons who themselves stated that they are arranging for money which apparently were demanded by the superior police officers. He submitted that the petitioner being merely a constable has been made an escape-goat at the hands of the superior officials, who are just trying to save themselves from the wrath of criminal prosecution and departmental inquiry.

5. Having made the aforesaid submissions, learned counsel for the petitioner contended that since the real accused in the case is the SHO of the police station, at whose behest, the petitioner has been made accused in the case, he has no faith in the ongoing investigation of the aforesaid NTPC Khaira P. S. Case Nos.31 & 32 of 2019 . Hence, in the interest of justice, it



would be necessary that an independent agency should take up investigation of these cases.

6. Per contra, leaned counsel appearing for the State submitted that there are sufficient materials to show that the petitioner actively participated in the commission of the crime for which he was charged in NTPC Khaira P. S. Case No.32 of 2019. His defence cannot be made a ground for changing the investigating agency. He contended that the prayer made by the petitioner is totally misconceived and the writ petition is fit to be dismissed.

7. Having heard learned counsel for the parties and perused the materials available on record, I find that the petitioner has been made accused in NTPC Khaira P. S. Case No.32 of 2019. Initially, NTPC Khaira P. S. Case No.31 of 2019 was registered on 30.04.2019 under Section 30(a) of the Bihar Prohibition and Excise Act against Mantu Kumar Singh, Mangal Singh, Munna Singh, Sunil Singh and Alok Nath Keshari. In the FIR, it was alleged that the informant Amarendra Kumar, SHO of the Police Station was on his routine vehicle checking. While he received a secret information about illegal liquor being carried by few men, thereafter, the police swung into action. They stopped, two vehicles from which a total three persons tried to flee, but two



were nabbed. The nabbed persons disclosed their name as Mantu Kumar Singh and Mangal Singh and upon checking of the car, a total number of 2000 pouches of country made liquor were recovered. On interrogation, they disclosed the names of other accomplices and, accordingly, the FIR was lodged. Two arrested accused persons were brought to the police station and locked in the lockup.

8. As far as NTPC Khaira P. S. Case No.32 of 2019 is concerned, the same was also instituted on the same day, i.e., on 30.04.2019 on the basis of self-statement of said Amarendra Kumar, SHO of NTPC Khaira Police Station. He has alleged in his self-statement that two persons were arrested in connection with NTPC Khaira P. S. Case No.31 of 2019 and several pouches of illicit liquor were brought to the police station. When they were locked up, the petitioner allegedly in connivance with them set them free from the police lockup and, thereafter, made phone calls to them asking for money. The audio recording of which went viral. He has further alleged that the driver of Mantu Singh was locked up in the lockup by the petitioner without any information to the informant.

9. The aforesaid allegations made against the petitioner in connection with NTPC Khaira P. S. Case No.32 of



2019 would certainly attract the ingredients of a cognizable offence. In the case of a cognizable offence, the police officers posted in the jurisdictional police station have statutory right to investigate a case. The defence of false implication taken by the petitioner cannot be made a ground for change of investigating agency. The defence can be tested by the court at the appropriate stage. It is well-settled principle of law that an accused has no right to choose investigating agency of his choice. As the allegations are quite serious and investigation into the case is going on, in absence of any material that investigation is not fair, this Court cannot issue any direction to the respondents to hand over investigation to any other agency. Simply because, the petitioner happens to be a police constable, his case cannot be treated to be an exceptional one where his choice would be preferred over the statutory provisions of law.

10. In that view of the matter, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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