

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51573 of 2019

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

ANAND SHARMA, aged about 50 years, Male, Son of Radhe Shyam Sharma, Resident of Village - Korji, P.O. - Mahmadpur, P.S- Phulwarisharif, Via- Khagaul, District-Patna-801105

... .. Petitioner/s

Versus

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

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate
		Mr. Lakshmi Kant Sharma, Advocate
For the Opposite Party/s	:	Mr. Ajay Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 01-10-2019 Heard learned counsel for the parties.

Petitioner seeks bail in a case registered for the offence punishable under Sections 419, 420, 467, 468, 471/34 of the Indian Penal Code and later on Section 66(D) of the Information Technology Act and Sections 7/8/9/13(1)(a)(b)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.

Earlier prayer for bail of the petitioner was rejected by this Court by order dated 28.11.2017 passed in Cr. Misc. No.36956 of 2017 and by order dated 17.4.2019 passed in Cr. Misc. No.11737 of 2019, as contained in Annexure 1 series.

Informant is the police ASI of Agamkuan Police



Station who in his written complaint on which FIR was drawn, has alleged that he received an information that Pawan Kumar and Atul Ranjan Sinha who had taken a rented house of Dinanath Singh in Mohalla Kanti Factory Road were circulating question papers and answer sheets of examination being conducted by Bihar Staff Selection Commission for appointment on different posts under different departments in Government of Bihar. Informant along with other police personnel raided the house and apprehended three persons namely, Pawan Kumar, Bipin Kumar and Navneet Kumar who were involved in transmitting answers of the question paper to the examinees through Whats app, blue-tooth and other electronic devices after taking hefty amount from merit less candidates. Subsequently, the case was transferred and investigation was conducted by SIT.

It has been submitted on behalf of Sr. counsel for the petitioner that neither petitioner was apprehended on the spot nor there was any evidence of his participation in leakage of question paper or transmission of answers by electronic devices. Petitioner has been implicated in this case only on the confessional statement of co-accused Parmeshwar Ram who was the Secretary of said Commission and on his own



confessional statement which was obtained by the police under coercion.

During investigation, SMS sent by the mobile of the petitioner to Secretary of Commission Parmeshwar Ram was traced but same related to ANM candidates and not candidates of present examination as they were sent much prior to the date of examination of BSSC. Allegation that petitioner had talked or sent SMS to Aman Prit Singh Brar who was the supplier of OMR sheet is also not concerned with this case. A talk between the two for 12 seconds was much prior to the date of examination and was with respect to sale-purchase of land. No incriminating material had been recovered nor any disproportionate asset has been found against petitioner.

No candidate has levelled any allegation of involvement of petitioner either in leakage of question paper or having received any money from any candidates. It has come during investigation that question papers were photographed before commencement of examination at AVN School Rajiv Nagar and thereafter, they were transmitted through Whats App message.

Petitioner is a land broker and had sold plots to Parmeshwar Ram near All India Institute of Medical Sciences,



Patna. Petitioner is neither a government servant nor in any way related to Bihar Staff Selection Commission examination or leakage of question paper.

Mr. Ajay Mishra, learned counsel for the SIT, submits that although petitioner is not named in FIR but during course of investigation, his complicity in said examination scam has been found, as such, he does not deserve privilege of bail.

Learned counsel for the petitioner has brought to the notice of this Court regarding grant of bail to one co-accused Ajay Kumar @ Ajay Kashyap by order dated 10.07.2019 passed in Cr. Misc. No. 72651 of 2018, as contained in Annexure 2, by which a co-ordinate Bench of this Court has granted bail to said petitioner who was in jail for about two and half years and even charges were not framed as yet. It is submitted on behalf of petitioner that his case is on better footing than that of the co-accused who has been granted bail by a co-ordinate Bench of this Court.

Petitioner is having a clean antecedent and is in custody since 11.02.2017.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like



amount each to the satisfaction of learned court below where the case is pending in connection with Special Case No.11 of 2017 arising out of Agamkuan P.S. Case No.44 of 2017, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(S. Kumar, J)

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