

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5099 of 2019

Arising out of P.S. Case No.-48 Year-2015 Thana- VIGILANCE District- Patna

Awadhesh Kumar @ Awadhesh Prasad, son of Late Ram Sagar Sharma,
Resident of Village and Post-Pinjour, P.S.- Parasbigha, District - Jehanabad

... .. Petitioner

Versus

The Superintendent of Police, Vigilance Investigation Bureau-cum-Officer In-charge, Vigilance Police Station, 6, Circular Road, Patna.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Senior Advocate

Mr. Sandeep Sahi, Advocate

For the Opposite Party/s : Mr. Anjani Kumar, L.O, I/C Vigilance.

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
C.A.V. ORDER

6 05-07-2019 This is an application for grant of anticipatory bail in connection with Special Case No. 10 of 2015 arising out of Vigilance P.S. Case No. 48 of 2015, for the offences under Sections 467, 468, 471, 409, 420, 120B of the Indian Penal Code read with Section 13(2) and 13(1) (C) (D) of the Prevention of Corruption Act, 1988.

Prosecution story as per F.I.R. is that a report was lodged by the D.S.P. Vigilance Investigation Bureau, Bhagalpur Range, Bhagalpur before the Superintendent of Police-cum-Officer-In-Charge, Vigilance Investigation Bureau, Patna on the basis of enquiry report of Leopard Team of Commissioner, Munger on the complaint filed by M.L.A., Kharagpur relating to irregularity in transporting of Boulder for reconstruction of



Kharagpur Lake, found many irregularities and also found that many officers also responsible for the same including the petitioner.

Submission of learned counsel for the petitioner is that he assumed the charge at Kharagpur as Executive Engineer on 14.07.2009 and prior to his joining, no bill has been sanctioned by the petitioner, thereafter, the Chief Engineer, Irrigation, Bhagalpur directed for conducting an enquiry regarding lake, which will appear from the Annexure-2 and Enquiry Committee submitted a report to Chief Engineer, (Annexure-3) and on that Chief Engineer had directed the petitioner and Superintendent Engineer to check further regarding payment of Contractor and made payment (Annexure-4). On that direction, petitioner got the bill prepared after re-measurement of the work and he also got the challan verified from the Mines Inspector as per Annexures 5 & 6 and transport challans were verified vide Annexure-7. Thereafter, a bill for payment of Rs.51,82, 881/- has been passed after withholding the amount of Rs.34,50,545/-. It has further been submitted that considering the same, the Superintendent Engineer has been granted anticipatory bail by a Co-ordinate Bench of this Court and one other accused has also granted anticipatory bail vide



order dated dated 04.05.2018 in Criminal Misc. No. 20762 of 2018.

Heard senior learned counsel appearing on behalf of the Vigilance, who has opposed the prayer for anticipatory bail and submitted that earlier in a Leopard Mission Team was constituted for verification of the different works and so far as the preparing of Kharagpur Lake is concerned, it was also verified and make same. It appears from the report that measurement made by Junior Engineer and Assistant Engineer is false and the supply of boulder also does not appear to be true, rather the team and the daily wage employee has informed that no boulder has brought from outside and in that view of the matter, the supply of boulder has not been verified. The aforesaid fact will appear from Page 322 of the case diary.

Further submission is that petitioner got a Committee constituted for enquiry from the persons who are not attached with the work and prepared a bill of rupees fifty two lakhs and it was earlier a bill of only rupees thirty two lakhs in collusion with one Ram Bahadur Mahto, Junior Engineer and also assaulted to Shardanandan Singh, Junior Engineer, Irrigation Division, Tarapur. In that connection, the Principal Secretary has directed the Flying Squad to enquire into the matter and



Superintendent Flying Squad has directed the Technical Advisor to enquire into the matter after enquiry, it has come that for supply of boulder, illegal payment has been made and dismental boulder was also approved and the occurrence of Marpreet is found true, for which, a case is going on in the court of Chief Judicial Magistrate. The aforesaid fact will appear from Page 89 to Page 103 of the case diary. It has also been submitted that in connection, earlier a complaint has also been lodged by Shardanandan Singh, Junior Engineer, which will appear from Page 326 of the case diary about the payment without supply of boulder and pressurizing him to put his signature on the bill.

Learned senior counsel for the vigilance has also drawn my attention towards Page 90 of the case diary, which shows that Leopard Team has found that the supply of boulder and transportation is forged, for that the then Executive Engineer has stopped the payments, but only without verification of the papers, the payment has been made and Page 91 of the case diary also disclosed that petitioner in order to overrule the order of earlier Executive Engineer requested Superintendent Engineer for re-enquiry so that the payments may be made. On the recommendation of the petitioner, the Enquiry Committee was constituted of the persons who were



not attached with the work, though it was clear that boulder was not supplied and transport bill is forged and as such, the petitioner knowing fully well, in collusion with other persons made the payments.

Learned senior counsel for the vigilance has also drawn my attention towards Page 133 of the case diary to show that there are several allegations against the petitioner and he is kingpin in making the payment in spite of the fact that boulder has not been supplied and transport bill is forged, which has come in the earlier enquiry by the vigilance.

It has also been submitted that in the above said facts and circumstances of the case, the case of the petitioner is not similar to that of the Executive Engineer, as on the recommendation of the petitioner, the Superintendent Engineer has acted upon.

Having heard both sides, in view of the facts as discussed above, I am not inclined to grant privilege of anticipatory bail to the petitioner, hence this application is dismissed.

(Vinod Kumar Sinha, J)

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