

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72651 of 2018

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

=====

Ajay Kumar @ Ajay Kashyap, Son of Sri Rudrapratap Singh, Resident of Village ChakerSenpur, P.S. Mondua, District Ambadkar Nagar (UP) at present residing at M-155, Ridham Apartment, GIDC, Naroda, Ingal Sol Rand, P.S. Naroda, District Ahmedabad.

... .. Petitioner/s

Versus

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

... .. Opposite Party/s

=====

Appearance :

For the Petitioner	:	Mr. P.K. Shahi, Senior Advocate
		Ms. Shama Sinha, Advocate
For the Opposite Party/s :		Mr. Ajay Mishra, APP

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 10-07-2019 Heard Mr. P.K. Shahi, the learned Senior counsel appearing on behalf of 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. Later on Sections 120(B) of the Indian Penal Code and Section 66(D) of the I.T. Act and Sections 7/8/9/13(1)(a)(d) (e) read with Section 13(2) of the Prevention of Corruption Act were added.

Learned Senior counsel for the petitioner submits that the prayer for bail of the petitioner was earlier rejected on



03.07.2017, passed in Cr. Misc. No.20500 of 2017. The petitioner again moved for bail in Cr. Misc. No.56221 of 2017 but this Court by order dated 20.07.2018 rejected the bail petition of the petitioner. It is further submitted that the petitioner is in jail since 21.02.2017. Petitioner is not named in the FIR. The petitioner is an employee of a printing press, namely, Confisec Pvt. Ltd. There is absolutely no direct material against the petitioner that question papers were leaked from the end of the petitioner and from the printing press. The Investigating Officer during the course of investigation found the petitioner in constant touch with Amanpreet Singh Barar, the person who were entrusted by the Bihar Staff Selection Commission (in short 'the BSSC') for printing OMR. He was entrusted to the printing press to obtain OMR sheets from the printer of OMR and the printing press was to send question papers along with OMR to the designated officers of the districts where the examination was scheduled to be held. The allegation against the petitioner is that the petitioner took manuscript of question papers and handed over the same to the wife of Vinit Kumar, the proprietor of printing press. The wife of Vinit Kumar was director of printing press. The mobile of the petitioner was also seized but no incriminating material was



found on examination of the mobile by Forensic Science Laboratory. The petitioner was not found messaging any manuscript question or the question papers after its printing through any electronic device or devices. It was the Chairman who was responsible for getting the manuscript of question papers from setters of question papers and to send to the press for printing. During the course of investigation, it was found that the question papers were photographed before commencement of examination at AVN School, Rajeev Nagar and thereafter they transmitted through WhatsApp message. There is no material to show that the question papers was circulated at the ends of the petitioner. It is further submitted that a report was called for from the trial court with regard to the stage of trial and the expected time to be taken for conclusion of the trial. The Special Judge reported that presently the case is pending for hearing on discharge petition of five accused persons. There are 93 witnesses arrayed in the charge sheet. Even after framing of charge at least two years is required to conclude the trial of the case subject to the cooperation of the prosecution. It is submitted that the petitioner has already remained in jail for about 2½ years and there is no chance of absconding of the petitioner and the petitioner will not tamper



with the evidence. The petitioner has not moved earlier any time before the Hon'ble Supreme Court.

Mr. Ajay Mishra, the learned Additional Public Prosecutor submits that the petitioner is an employee of Confisec Printing Press. During the course of investigation, it has come that it was petitioner who took the manuscripts of question papers from the Chairman of the Bihar Staff Selection Commission for printing the same. It has come during the investigation that the printed questions were circulated much before commencement of examination. It is further submitted that prayer for bail of Niti Ranjan Pratap, the I.T. Manager of Bihar Staff Selection Commission, Anand Sharma, Sanjeev Kumar and Kaushlendra Kumar @ Gorelal have been rejected on different dates and in some of the cases, it has been observed that they may renew their prayer for bail after six months. It is further submitted that Sajjad Ahmad who was granted bail by a coordinate Bench of this Court but later on his bail bond was cancelled on account of concealment of facts moved before the Hon'ble Supreme Court in Special Leave Petition (Criminal) Diary No(s). 34845/2018 against the order of cancellation and SLP was dismissed.

Perused the records and considered the submissions of



both sides. Of course the petitioner is not named in the FIR but his complicity transpired during the course of investigation. The prayer for bail of the petitioner was twice rejected by this Court, firstly in Cr. Misc. No.20500 of 2017 on 03.07.2017 and thereafter again the prayer for bail of the petitioner was rejected on 20.07.2018 vide order passed in Cr. Misc. No.56221 of 2017 with a direction to the trial court to conclude the trial within six months but from perusal of the report of the trial court, it appears that the charges have not yet been framed and the case is being adjourned on one pretext or the other. The Special Judge reported in his report that at least two years would be taken for conclusion of trial after framing of charge if the prosecution cooperates but it appears that the Special Judge has not made any effort for disposal of petitions filed by the accused persons and for framing of charges after submission of final form under Section 173 Cr.P.C. Final form was submitted about two years ago. The petitioner is an employee of Confisec Printing Press and it has come during the course of investigation that it was petitioner who had taken the manuscripts of question papers from the Chairman of the Bihar Staff Selection Commission and carried to the printing press. Petitioner is in custody since 21.02.2017.



Taking into consideration the facts aforesaid and the fact that the petitioner is in jail for about 2½ years, let petitioner, named above, be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance 1st, Patna in connection with Special Case No.11 of 2017, arising out of Agamkuan P.S. Case No.44 of 2017.

(Prabhat Kumar Jha, J)

S.KUMAR/-

U		T	
---	--	---	--

