

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6824 of 2020

Arising Out of PS. Case No.-471 Year-2019 Thana- GANDHIMAIDAN District- Patna

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RAMJEE CHOUDHARY S/o Late Ram Tapeswar Choudhary Resident of
Village- Dhelwa, P.S.- Ram Krishna Nagar, Distt- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR THROUGH VIGILANCE Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs.Soni Shrivastava

For the Opposite Party/s : Mr.Arvind Kumar

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

2 09-09-2020 Heard learned counsel for the parties.

Petitioner apprehend his arrest in a case registered for the offence punishable under Sections 13(2) and 7A of the Prevention of Corruption Act.

Prosecution story is based on the written report of the Deputy Superintendent of Police, Patna wherein it has been alleged that the present petitioner illegally used his position as Munshi in Gandhi Maidan Police Station to unlawfully extract money from the accused persons in an excise matter bearing Gandhi Maidan P.S. Case No.242 of 2019 in order to get the FIR typed in an irregular manner which in turn aided these accused persons to get a bail without going to the prison on



basis of said report Gandhi Maidan P.S. Case No.471 of 2019 dated 16.11.2017 was registered against the petitioner for the offence under Section 7A of PC Act.

Allegation against the petitioner is based upon irregularities committed by him in institution of the FIR bearing Gandhi Maidan P.S. Case No.242 of 2019 under Section 37(b) of the Excise Act dated 2.6.2019 . Informant is Deepak Kumar, ASI whereas Sunil Kumar Singh, SHO lodged the FIR and Bindeshwar Mishra, ASI was to investigate the case. FIR was instituted on the written complaint of the ASI Deepak Kumar stating therein that he is posted in Gandhi Maidan P.S. and was on duty when at about 2.20 p.m., Quick Mobile Sepoy Harishchander Singh and Avinash Kumar brought four persons namely accused Raju Sahani, accused Munna Kumar, accused Shambhu Prasad and accused Vicky Kumar and informed him that at 1.15 pm while he was patrolling near Basant Tower, four persons started fleeing on seeing police, however, they were nabbed after chase and were found in drunken condition and brought to the police station and were tested by breath analyser machine and were found to have consumed alcohol and as such were apprehended and on said written complaint of ASI Deepak Kumar, Gandhi Maidan P.S.



Case No.242 of 2019 dated 2.6.2019 under Section 37(b) of the Excise Act was registered by Sunil Kumar Singh, Officer-in-Charge, Gandhi Maidan PS and investigation was entrusted to Bindeshwar Mishra, ASI and they were produced before the Special Court, Excise and were granted bail as Section 37(c) of the Excise Act is bailable.

A WhatsApp message was received by the office of Sr. S.P., Patna alleging acceptance of bribe in this case by registering the case in a bailable section and on such complaint, Dy. Sp. Town Patna was asked to enquire the matter and submit its report and who reported that petitioner Ramji Choudhary had typed the FIR in bailable section and helped the accused in getting bail by demanding and accepting bribe. The Dy.SP in its inquiry has found that all the four accused were interrogated separately and all of them stated that they were sitting near their shop to eat meat and rice and before that they had consumed *Toddy* and about 2-3 p.m. sepoy of Quick Mobile and Ramji Choudhary reached there and accused them of consuming liquor which they denied then Gypsy was called and they were taken to police station and in test, they were found to be slightly in drunken condition and in the police station, petitioner Ramjee Choudhary first demanded rupees one lac otherwise they will be



charged with keeping a bottle of liquor and sent to jail where they will have to remain for four – five months. Anyhow, they managed to arrange Rs.50,000/- and thereafter, they were charged under Section 37(c) of Excise Act and granted bail by the court.

The inquiry officer has opined that on perusal of the typed FIR, it appears that P.S. Case and Section have been typed upon which there is signature of informant ASI and Inspector, SHO from which it appears that petitioner has typed the FIR and got the signature of informant and SHO simultaneously. Petitioner has denied the allegation but could not give any proper explanation with regard to fully typed FIR and has finally found that petitioner was instrumental in getting the section 37(b) of Excise Act inserted in FIR as per his wish and accepting bribe for helping the accused for which explanation could be asked from the petitioner, and subsequently on said report, FIR was instituted against the petitioner.

Petitioner has submitted that he is innocent and has been falsely implicated in this case and whole case is based upon irregularities in institution of FIR although from the FIR itself, it is apparent that petitioner has nothing to do with said case. Informant in his FIR has clearly stated that four accused



were apprehended by two sepoy of Quick Mobile in a drunken condition and were brought to police station and were tested and found to have consumed liquor and thereafter FIR was registered by SHO on written complaint of informant. Petitioner has nothing to do with arrest of accused or institution of FIR. SHO in his reply during inquiry has stated that he himself has asked to register the FIR under Section 37(b) of Excise Act as the offences were made under said section.

Petitioner has brought on record by way of Annexure 7 series which are FIR registered in P.S. in Excise matter and they are shown to have been registered in the same manner as in the present case and it has been submitted that it is the usual practice followed in the Police Station for registration of FIR and present case is not an exception.

There is much contradiction in statement recorded by the enquiry officer of concerned persons, contents of FIR and the opinion formed by the enquiry officer on the basis of such statements.

It has lastly been submitted that petitioner is in police service since 1992 and there has been no adverse remark or other proceeding against him in his entire career. Petitioner is a government servant as there is no chance of absconding or



tampering with the evidence.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on anticipatory bail in the event of his/her arrest or surrender before the court below within a period of four weeks from today upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending, in connection with **Gandhi Maidan P.S. Case No. 471 of 2019**, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(S. Kumar, J)

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