

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14835 of 2020

Arising Out of PS. Case No.-44 Year-2019 Thana- C.B.I CASE District- Muzaffarpur

Sudhir Kumar S/o Ram Das Resident of Village and Mohalla- Nun Ka Chauraha, P.S.- Khajekala, Patna City, Distt- Patna the then Town Executive Officer, Nagar Parishad, Narkatiyaganj (Betiya), Distt- West Champaran

... .. Petitioner/s

Versus

The State Of Bihar Through Vigilance Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Niles Kumar, Advocate
For the Vigilance, Bihar : Mr. Arvind Kumar, Spl. PP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 01-07-2020 Heard learned counsel for the petitioner and learned Special Public Prosecutor for the Vigilance, Bihar, Patna through video conferencing.

The petitioner who is in custody since 15.11.2019 has filed the instant application for grant of regular bail in connection with Special Case no. 30 of 2019 (Vigilance (Patna) P.S Case no. 44 of 2019) registered under section 7(a) of the Prevention of Corruption Act, 1988.

As per allegation in the FIR, on the demand of bribe having been made by the petitioner, the same was got verified by one Mohan Kumar Pandey of the Vigilance Department. Thereafter, it is stated that a raid party was constituted and on raid being conducted, the petitioner was



caught taking bribe of Rs. 50,000/-.

It is submitted by learned counsel for the petitioner that the allegation as levelled in the first information report is absolutely false. From perusal of pre-trap and post-trap memorandum, it would transpire that the relevant circulars of the Vigilance Department with respect to video and audio recording of the demand of bribe were not carried out. It is further submitted that from the documents enclosed with the first information report it would be evident that it was Swarg agency who had submitted the bill for its payment and payments were also being made to the said agency. Reference is made to clause 10 of the agreement to show that payment could not be made to any other person. It is further submitted that contrary to the relevant clause of the agreement, as per the FIR it is stated that Prem Kumar Das had been authorized to do the work. Referring to para 17 and para 108 of the case diary it is submitted that the head of the raiding team was also the Investigating Officer of the case which is on the face of it illegal. The petitioner being a government servant, there is no chance of his absconding. It is submitted that the petitioner is in custody since 15.11.2019 and the Investigation having concluded, charge sheet has been submitted in the case. Further



reliance is placed on behalf of the petitioner on the judgment of the Hon'ble Supreme Court in the case of P. Chidambaram vs. Directorate of Enforcement reported in 2020 (1) PLJR 170 (SC).

The application for bail is opposed by learned counsel appearing for the Vigilance, Bihar who submits that on a complaint having been filed, a trap was set up by the department and the petitioner was caught taking bribe red handed. It is further submitted that the application for bail of the petitioner be rejected and in case the Court considers granting bail to the petitioner, conditions be imposed to ensure presence of the petitioner in course of trial.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case together with the fact that the investigation in the case has concluded, charge sheet has been submitted and the petitioner who has no criminal antecedent is in custody since 15.11.2019, the Court is inclined to enlarge the petitioner on bail. The petitioner is directed to be enlarged on bail in connection with Special Case no. 30 of 2019 (Vigilance (Patna) P.S Case no. 44 of 2019) 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, Muzaffarpur.



It is further directed that the petitioner shall co-operate in the proceedings in the Court below and shall remain personally present in Court on each and every date of the trial and in case of his absence on two consecutive dates for reasons not to the satisfaction of the Court below, the bail bond of the petitioner shall be canceled and he shall be taken into custody till conclusion of the trial. The two bailors shall be residents of a place within the territorial jurisdiction of the learned Court below. In case the petitioner has any passport he shall surrender the same in the Court below and he shall not leave the country without prior permission of the Court below.

(Partha Sarthy, J)

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