

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 19926 of 2020

Arising Out of RC Case No.-4 (s) Year-2016 Thana- C.B.I CASE District- Patna

Nand Kishore Singh @ Nandu, Aged about 65 years, Son of Raj Nandan Singh, Resident of Village - Near Kurthaul, Yadav Chak, P.S.- Parsa, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate with Mr. Nirbhay Kumar Singh, Advocate
For the State	:	Mr. Bharat Lal, APP
For the CBI	:	Mr. Bipin Kumar Sinha, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 24-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Yogesh Chandra Verma, learned senior counsel along with Mr. Nirbhay Kumar Singh, learned counsel for the petitioner; Mr. Bharat Lal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Bipin Kumar Sinha, learned counsel for the Central Bureau of Investigation (hereinafter referred to as the 'CBI').



3. The petitioner is in custody in connection with RC Case No. 4(S) of 2016 dated 05.10.2016, instituted under Sections 120B, 420, 468 and 471 of the Indian Penal Code.

4. The allegation against the petitioner, along with others is that he was party to a forged and fabricated order of the Court below being changed in a case record of the Patna High Court.

5. Learned counsel for the petitioner submitted that though as per the allegation, the petitioner and two learned counsel and two other persons were in the knowledge of such activity and in the past also, they had committed the same crime, but in the present case, the petitioner is not responsible as the allegation is not that he had created the forged document and, thus, he was unaware with regard to the authenticity of the document and only as an Advocate Clerk, on the basis of what he had received from learned counsel, he had prepared the brief for filing in the High Court. It was submitted that the petitioner could not have known whether the document was forged and fabricated. Learned counsel further submitted that the main accused in the case, advocate Arun Kumar Tiwari, who is alleged to have brought the forged document, has already been released on bail by the Court below itself, though under Section 167(2) of the Code of



Criminal Procedure, 1973. Learned counsel submitted that he has filed a supplementary affidavit in which it has been stated that after a year of lodging of the present case, the petitioner met with an accident on 20.10.2017, on a Railway track, due to which both his legs were crushed. In support thereof, learned counsel drew the attention of the Court to the medical prescription/report of the Patna Medical College and Hospital as also the disability certificate issued by the Primary Health Centre, Phulwarisharif, which have been brought on record in the supplementary affidavit, in which his photograph reveals that both the legs below his knee are missing and the disability percentage is 80%. Learned counsel also referred to the decisions of the Hon'ble Supreme Court in **P. Chidambaram vs. Directorate of Enforcement (MANU/SC/1670/2019)** and **Sanjay Chandra vs. CBI (MANU/SC/1375/2011)**, the relevant being at paragraphs no. 22, 24 and 28. He also referred to a decision of a co-ordinate bench in **Suresh Prasad Singh vs. The State of Bihar through Vigilance** dated 14.01.2020 in Cr. Misc. No. 61740 of 2019, where relying upon the judgment in the case of **P. Chidambaram (supra)**, especially paragraph no. 21 thereof, bail has been granted. Learned counsel submitted that chargesheet has been submitted and as the case is based on documents, there is no chance of the



petitioner tampering with the evidence as now all such evidence is in the custody of the Court/CBI. Learned counsel submitted that in the supplementary affidavit, he has also made a categorical statement that he would not be discharging/doing work of Advocate Clerk or would visit the High Court premises at all. Learned counsel submitted that further the petitioner undertakes that he would neither visit nor do any work related to any Court/Tribunal. Learned counsel submitted that the petitioner is in custody since 12.12.2019 and even in the prison, he is in the hospital ward as he is unable to take care of himself due to his extreme disability.

6. Learned APP submitted that the allegation against the petitioner is grave.

7. Learned counsel for the CBI submitted that the case has been found true against the petitioner also and he has been chargesheeted. However, he did not dispute the fact that Arun Kumar Tiwari has been found to be the main brain behind the incident and that he has been released by the Court below itself. He further did not controvert the fact that after submission of chargesheet, the matter is now based on evidence and records, which are complete.



8. Having considered the facts and circumstances of the case and the submissions of learned counsel for the parties, having special regard to the fact that the petitioner suffers from 80% disability, which occurred after more than a year of the FIR being lodged, due to which both his legs below the knee have been amputated as also the undertaking given by him that he shall not involve himself with any work in any Court or Tribunal and would also not visit any Court or Tribunal premises, including the Patna High Court, the Court is of the opinion that the petitioner be shown indulgence.

9. Accordingly, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, CBI, Patna in RC Case No. 4(S) of 2016 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses, and shall not do or be associated with any work in any capacity in any Court or Tribunal nor visit the premises of any Court or Tribunal, including



the Patna High Court. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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