

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.15312 of 2020**

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

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DINESH KUMAR YADAV S/o Bhuvneshwar Yadav Resident of Village-
Baskhora, P.S.- Marouna, Distt- Supaul, presently C/o Ashok Singh,
Mahendru Post Office, P.S.- Sultanganj, Distt- Patna.

... .. Petitioner

Versus

1. THE STATE OF BIHAR THROUGH VIGILANCE, PATNA Bihar
2. The State of Bihar

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma, Sr. Counsel
For the Vigilance : Mr.Arvind Kumar, Advocate
For the Opposite Party/s: Mr.Ajay Mishra,APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-06-2020 Heard Mr. Yogesh Chandra Verma, learned Senior

Counsel for the petitioner, Mr. Ajay Kumar, learned APP for
the State and Mr. Arvind Kumar, learned counsel
representing the Vigilance.

This is the third attempt of the petitioner to seek
regular bail in connection with Special Case No. 11 of 2017
arising out of Agamkuan P.S. Case No. 44 of 2017
registered for the offences punishable under Sections 419,
420, 467, 468, 471, 34 of Indian Penal Code.

Earlier while rejecting the prayer for bail of this
petitioner for the second time on 06.09.2019 this Court had



after taking note of the allegations against the petitioner and upon finding that he had not completed two and half years in jail as yet refused to grant bail to the petitioner. The issue of two and half years of jail was raised on behalf of the petitioner citing the order passed by learned Coordinate Bench of this Court in the case of co-accused Ajay Kumar @ Ajay Kashyap who was granted bail in Cri. Misc. No. 72651 of 2018 on 10.07.2019. Learned Coordinate Bench has granted the co-accused bail on finding that he was in jail for about two and half years.

At this stage, Mr. Verma, learned Senior Counsel has submitted before this Court that the maximum punishment prescribed for the offences alleged are seven years whereas the petitioner has remained in jail for 3 years 4 months by now. Referring to a number of orders copies of which have been placed on record as Annexure '3' series passed in respect of the bail matters of the co-accused learned Senior Counsel has submitted that while granting bail to the accused Kaushlendra Kumar @ Kaushik @ Gorelal in Cri. Misc. No. 55077 of 2019 on 17.01.2020 a learned Coordinate Bench of this Court has taken note of



the report which was called for from the Court below and observed that as per the said report there is no chance of trial being concluded in near future.

Learned Senior Counsel has thereafter submitted that one of the co-accused Vinit Kumar @ Vineet @ Vineet Arya who was the owner of the printing press where the question papers were being printed and there were serious allegations against him was granted provisional bail by a learned Coordinate Bench of this Court and when his prayer for extension of provisional bail was rejected, he went to the Hon'ble Supreme Court where in special Leave Petition (Criminal) No. 9300 of 2020 initially vide order dated 19.03.2020 the Hon'ble Apex Court granted an interim order exempting him from surrendering before concerned authorities for a period of four months and later on vide order dated 17.04.2020 the Hon'ble Apex Court has been pleased to take a view that since chargesheet has been filed against the petitioner who was earlier in custody, there was no purpose in taking the petitioner into custody at this stage. The Hon'ble Apex Court further observed that “ the trial will naturally proceed and the petitioner will cooperate with



the trial and will not take any unnecessary adjournment and shall remain present in Court unless exempted...”

Learned Senior Counsel has then relied upon the judgment of the Hon’ble Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation** reported in **AIR 2012 SC 830 (para 28)** and in the case of **P. Chidambaram vs. Directorate of Enforcement** reported in **2020 (2) SCJ 112**. It is his contention that in the present case also the basic jurisprudence relating to bail which says that the grant of bail is the rule and refusal is the exception must be followed. It is his contention that in the present case the evidences are all based on documents and at this stage when the petitioner has remained almost half of the maximum period of punishment prescribed and the trial is not likely to be concluded in near future as also that co-accused have been granted bail by learned Coordinate Benches of this Court, the petitioner deserves the privilege of regular bail.

Learned APP for the State and learned counsel for the Vigilance have joined together to oppose the present application. It is, however, not disputed that the petitioner



has remained in custody for 3 years 4 months by now and till date despite no lapse on part of the petitioner charges have yet not been framed. It is also not disputed what has been observed by the learned Coordinate Bench that in near future the trial is not likely to be concluded. On behalf of the State there is also no submission that the release of the petitioner at this stage is in any way likely to interfere adversely with the course of trial or there would be any chance of tempering with the evidence. It is their submission that the prayer for bail of the petitioner has been rejected twice by this Court and recently the prayer for bail of the co-accused Rishidev Sinha has been rejected by a learned Coordinate Bench of this Court.

Having heard learned Senior Counsel for the petitioner as also learned APP for the State and learned counsel for the Vigilance and on going through the records, this Court has noticed that earlier the prayer for regular bail of the petitioner has been rejected considering that the allegations against the petitioner are that he was in touch with other co-accused persons of the case and they were doing setting work in the examination and were taking huge



money from the students. Lastly the prayer for bail of the petitioner was rejected after taking note of the fact that he had also not completed two and half years in jail. Now, this Court finds that the petitioner has remained in custody for 3 years and 4 months, for no fault on his part the charges has not yet been framed in this case and while granting bail to one of the co-accused, the learned Coordinate Bench of this Court has, on the basis of the report received from the Court below observed that the trial is not likely to be concluded in near future. Apart from the co-accused who have been granted bail by learned Coordinate Benches of this Court, one of the co-accused Vinit Kumar @ Vineet @ Vineet Arya who had moved the Hon'ble Apex Court against the order of this Hon'ble Court rejecting his prayer for extension of provisional bail, has been allowed to remain on bail by the order of the Hon'ble Apex Court.

This Court has been informed that the said accused had also remained in custody for about 3 years. At this stage having taken note of the submissions of the parties and the views expressed hereinabove, this Court finds that the continued incarceration of the petitioner in jail



at this stage is not likely to help in investigation of the matter and as is settled by judicial pronouncements an under-trial accused cannot be kept in prison only with an intention to keep him punishing as a convict. To this Court, it appears at this stage that no purpose either in aid of investigation or the prosecution will be served by keeping the petitioner in jail, let the petitioner above named be released on bail on furnishing of bail bonds of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of 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, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any



person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that petitioner shall present himself as and when required in course of trial in the court below and any two consecutive failure to attend the proceeding before the trial court would lead to cancellation of his bail bond.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

The application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/Arvind

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

