

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20866 of 2020

Arising Out of PS. Case No.-45 Year-2019 Thana- VIGILANCE District- Patna

ARVIND KUMAR Son of Late Surendra Kumar Rathaur Resident of Village and P.O.-Neura, Police Station-Danapur, District-Patna. At present Flat No.308, Haricharan Residency, Nandanpuri, Ambedkar Path, P.O.-Rajeev Nagar, Police Station-Rajeev Nagar and District-Patna.

... .. Petitioner

Versus

THE VIGILANCE DEPARTMENT THROUGH ITS SUPERINTENDENT OF POLICE, PATNA Patna.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr. Advocate
		Mr. Manish Kumar No2, Advocate
For the Opposite Party/s	:	Mr. Anjani Kumar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 04-11-2020 As of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through Video Conferencing.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual court proceedings from their homes, all with the aid of audio visual technology.

Heard learned Counsel for the petitioner and the learned Counsel for the State.

. This Court would expect that the petitioner's Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in Special Case No. 21 of 2019 arising out of Vigilance PS Case No. 45 of 2019 registered under Section 7(a) of Prevention of Corruption Act, 1988.



The prosecution case alleges recovery of cash being bribe received by the petitioner, an Executive Engineer, for en-cashing running bills of the contractor.

It is submitted by learned Senior Counsel for the petitioner that the prosecution allegation is false. It is motivated at the instance of the contractor because the petitioner had already issued orders under letter dated 11.11.2019 and 4.11.2019, Annexures 4/1 and 5 respectively, for taking action against the complainant as the work of maintenance of road was not being performed in terms of the agreement between the complainant and the State. The licence of the complainant was therefore cancelled. It is submitted that because of such action being taken by the petitioner the present prosecution has been instituted by the complainant on extraneous consideration. The recovery is not in accordance with law. It is also submitted that the petitioner under such circumstances is in custody since 19.11.2019, nearly one year.

Learned Senior Counsel for the Vigilance has vehemently opposed the prayer for bail. It is submitted that the allegations are corroborated by the recovery. The petitioner being a public servant may not be enlarged on bail in the facts and circumstances of the case.

Considering the rival submissions as also the facts and circumstances of the case, this Court is inclined to allow the prayer. The prayer for bail of the petitioner is allowed.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Vigilance, Bhagalpur in Special Case No. 21 of 2019 arising out of Vigilance PS Case No. 45 of 2019 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is



related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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