

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.30540 of 2020**

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

Ashish Kumar S/o Late Jagdev Ram Resident of Mikaut, P.S-Sadar, District-Motihari, presently residing at 16/563C, LIG Flats Hanuman Nagar, P.S-Patrakar Nagar, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. The Vigilance Department, Bihar, Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s :	Mr.Saket Tiwary, Advocate
For the Opposite Party/s :	Mr.Ajay Kumar Mishra, APP
	Mr.Dr.Mrityunjay Kumar Gautam, APP
For the Vigilance :	Mr.Arvind Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 24-11-2020 Heard Mr. Saket Tiwary, learned counsel for the petitioner, Mr. Arvind Kumar, learned counsel representing the Vigilance Investigation Bureau and Mr. Ajay Kumar Mishra and Mr. Dr. Mrityunjay Kumar Gautam, learned APP for the State.

Although Mr. Gautam is the APP in this case but this Court had specifically called for Mr. Ajay Kumar Mishra, learned APP yesterday to assist this Court and pursuant to that he is present.

The petitioner in the present case is seeking regular bail in connection with Agamkuan P.S. Case No. 44 of 2017 registered for the offences punishable under Sections 419, 420, 467, 468, 471, 120(B)/34 of the Indian Penal Code, Section 66D



of the Information Technology Act and Sections 7, 8, 9, 13(1) (c) (d) read with 13(2) of the Prevention of Corruption Act.

Learned counsel for the petitioner submits that so far as the allegations against this petitioner is concerned, it is alleged that this petitioner had at the instance of his maternal uncle Professor Awadhesh Kumar had gone to Hazaribagh and from there he had received the answer sheets. He had made available the said answer sheets to one Ranjan Kumar on the direction of his maternal uncle.

Learned counsel for the petitioner submits that in the present case the petitioner is in jail for 3 years 9 months by now and in the facts and circumstances of the present case this has become very relevant because now almost all the accused against whom there were specific allegations have been granted bail either by this Court or by the Hon'ble Apex Court. The co-accused have been granted bail after finding that they are in custody for 3 years or above and till date the charges have not been framed against them and there is no chance of conclusion of trial in the near future, therefore, their further incarceration in jail would only be by way of punishment.

Attention of this Court has been drawn towards the order dated 16.06.2020 passed by this very Court in Cri. Misc.



No. 15312 of 2020 (Dinesh Kumar Yadav versus The State of Bihar and Another). In the said case after noticing that the petitioner was in jail for almost 3 years and in the meantime co-accused Vinit @ Vinit Kumar @ Vinit Arya had been allowed to continue on bail by the Hon'ble Apex Court and then the trial was not likely to be concluded in near future, this Court had directed to release the petitioner on bail. Thereafter one of the main accused Mr. Sudhir Kumar, I.A.S. who was the Chairman of Bihar Staff Selection Commission and whose prayer for bail was refused by learned Co-ordinate Bench of this Court had gone to the Hon'ble Apex Court in SLP (Criminal) No. 3441 of 2020. He has been released on bail by the order of the Hon'ble Apex Court and it is the submission of Mr. Tiwary, learned Advocate that there also the Hon'ble Apex Court had considered that the petitioner had remained in jail for over 3 years and trial was not likely to be concluded in near future.

Again it has been submitted before this Court that another co-accused Avinash Kumar had been granted bail by the Hon'ble Apex Court in SLP (Criminal) No. 3676 of 2020 and it has been informed to this Court that in the said case in fact the learned counsel representing the State has admitted that the trial is not likely to be concluded in near future.



Learned counsel for the Vigilance Investigation Bureau as well as Mr. Mishra, learned APP and Mr. Dr. Mrityunjay Kumar Gautam, learned APP have submitted that this petitioner is also one of the main accused but at the same time they are unable to distinguish the case of the petitioner from those who have been allowed bail either by this Court or by the Hon'ble Apex Court. In fact this petitioner has remained in jail for 3 years 9 months by now and this is one aspect which has been considered in the cases of co-accused for purpose of bail, this is not denied.

Having regard to the facts and circumstances of the case where this Court finds that the petitioner has remained in jail for 3 years 9 months and the co-accused similarly situated have been granted benefit of bail either by this Court or by the Hon'ble Apex Court which this Court had already noticed hereinabove and no distinction has been drawn in the case of the petitioner with that of those who have been given the benefit of bail, the charges are yet to be framed and trial is not likely to be concluded in near future, this Court directs release of the petitioner above-named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned



Vigilance Judge Ist, Patna in 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 the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

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.

And further condition that the petitioner shall be obliged to cooperate in course of trial and as and when required in the trial court he will appear on the date fixed in the matter and two consecutive defaults in putting appearance may invite action towards cancellation of bail.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

