

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 61740 of 2019**

Arising Out of PS. Case No.-23 Year-2019 Thana- VIGILANCE District- Patna

Suresh Prasad Singh Son of Late Bakhori Singh Resident of Village - Bishi
Basawan, P.S. - Sikraul, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance Investigation Bureau, Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Anjani Kumar(L.O.Inc.Vigilance,Bihar,Patna)

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

7 14-01-2020 Heard the learned counsel for the petitioner and the
learned APP for the State.

2. The petitioner seeks regular bail in connection with
Special Case No.23 of 2019 arising out of Vigilance P.S.Case
No.23 of 2019 instituted for the offences punishable under
Section 7(a)/12 of the P.C.Act.

3. According to FIR, one Akhilesh Kumar Jaiswal, a
contractor in the Road Construction Department filed a
complaint to the Vigilance Department alleging therein that the
petitioner who was Executive Engineer in the same department
had demanded illegal gratification for showing favour in release
of next instalment for completion of road construction work.

4. On that complaint, a trap was arranged and
allegation is that out of the entire money which was to be paid



to the petitioner two bundles of notes were taken out of bag by the petitioner in his residential chamber and handed over to Mr. Shashi Bhushan Kumar, cashier for counting. At the same time, the Vigilance Department intercepted and seized the money and arrested the petitioner as well as to the cashier.

5. Learned counsel for the petitioner submits that the petitioner has got no criminal antecedent. He is in custody since 08.06.2019. Investigation of the case is already complete. There is no material to substantiate that the petitioner is going to tamper with the evidence or abscond the process of law.

6. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in *P.Chidambaram case* vide *Cr.Appeal No.1831 of 2019* and submits that after considering the previous cases on the point of grant of bail especially the case of Constitution Bench judgment in *Shri Gurbaksh Singh Sibbia vs. State of Punjab (1980) 2 SCC 565*. The Court held that bail to under trial prisoner is a rule and refusal the exception.

7. His contention is that the CCTV footage installed at the office of the petitioner would show that no trap was made at the time stated in the post-trap memo nor it shows that any money was paid in the hands of the petitioner. The petitioner has



falsely been implicated in this case as he was not ready to approve the proposed work by the complainant which was not performed in fact.

8. Learned counsel for the Vigilance submits that serious allegation is there against the petitioner. The audio clip would show that the petitioner had demanded the said money from the complainant. Moreover, crores of cash was seized from the house of the petitioner at the time of search and seizure for which a separate case of disproportionate asset has been lodged against the petitioner.

9. Learned counsel for the petitioner submits that the wife and the children of the petitioner had sold a property at the cost of Rs.1,99,50,000/- on 01.06.2019 just before the alleged trap and the money was the sale proceed of the transaction. A copy of the registered deed of sale is produced for perusal of the Court.

10. In para-21 of P.Chidambaram case, three Judges Bench of Hon'ble Apex Court observed as follows:-

“21. Thus from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while



considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the triple test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case to case basis on the facts involved therein and securing the presence of the accused to stand trial.”

11. Since the conflicting material relied upon the parties in this case would show that in video clip, it is not evident that the money was handed over to the petitioner. In the audio clip, the conversation is there and it is to be established during trial that one of the voice was of the petitioner, there is



no material on the record to substantiate that the petitioner is going to tamper with the evidence or would be non-cooperative in the trial.

12. Considering the totality of the facts of this case as well as the judgment of the Hon'ble Supreme Court aforesaid, in my view, the petitioner deserves bail. Accordingly, he (Suresh Prasad Singh) is directed to be released on regular bail on furnishing bail bond of Rs.50,000/- (fifty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, Patna in connection with Special Case No.23 of 2019 arising out of Vigilance P.S.Case No.23 of 2019, subject to the condition that both bailors shall be resident of territorial jurisdiction of the learned court below and further the petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner and also that the petitioner shall not leave the country without permission of the court below. If the petitioner has any passport, he shall surrender the same in the court below.

(Birendra Kumar, J)

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