

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81843 of 2019

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

=====

Rakesh Ranjan @ Rocky, son of Late Suresh Choudhary, resident of Village-
Gajendra Bigha, Police Station-Hilsa, District-Nalanda.

... .. Petitioner

Versus

The State Of Bihar Through Vigilance, Patna

... .. Opposite Party

=====

Appearance :

For the Petitioner	:	Mr. Rajendra Narayan, Sr. Advocate
		Mr. Sunil Kumar Singh, Advocate
For the Opposite Party	:	Mr. Anjani Kumar (L.O.Inc.Vigilance,Bihar,Patna)
	:	Mr. Anil Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 25-08-2020 Heard Mr. Rajendra Narayan, learned senior

advocate for the petitioner and Mr. Anil Singh, learned Special

Public Prosecutor for the Vigilance via video conferencing.

The petitioner has filed the present application
under Sections 439 and 440 of the Code of Criminal Procedure
for grant of bail in connection with Agamkuan P.S. Case No. 44
of 2017 for the offences under Sections 419, 420, 467, 468,
120-B, 471/34 of the Indian Penal Code, Section 66D of the
Information Technology Act and Sections 7/8/9/13(1)(c)(d)(e)
read with Section 13(2) of the Prevention of Corruption Act,



1988.

The prayer for bail of the petitioner was rejected earlier, firstly, vide order dated 18.04.2018 passed in Cr. Misc. No.46882 of 2017 and, secondly, vide order dated 30.09.2019 passed in Cr. Misc. No.24075 of 2019.

The operative part of the order dated 18.04.2018 reads as under:-

“From perusal of entire case diary, CDR of the mobile the petitioner as well as his confessional statement, it appears that the petitioner was in constant touch with other accused persons before and on the date of commencement of examination and there are materials that he is also involved in the scam of leaking the question papers and answer-sheets.

Considering the facts and circumstances and the materials on record, I am not inclined to grant privilege of bail to the petitioner in connection with Special Case No.11 of 2017, arising out of Agamkuan P.S. Case No.44 of 2017 pending in the court of learned Special Judge, Vigilance 1st, Patna.

Application is, accordingly, rejected.”

The operative portion of the subsequent order dated 30.09.2019 whereby the prayer for bail of the petitioner was



rejected reads as under:-

“The report had been sought from the Court of learned Special Judge, Vigilance, Patna which has since been received i.e. on 07.09.2019. In the said report, the learned Court has said that charge is yet to be framed and in such a situation delay of one and half year is required for disposal of the case, if prosecution will cooperate properly.

It is not comprehensive to this Court as to why a matter of such serious nature is being lingered and even the charge has not yet been framed.

Let the prosecution take immediate steps so that the charge in the case is framed within a period of six weeks from today. The Court concerned must give an explanation to this Court as to why the delay is being occasioned. It is made clear that the Court must not grant unnecessary adjournment to either of the parties so as to cause any delay in framing of the charge. It is further directed that the trial of the case must be concluded within a period of one year from the date of receipt/production of a copy of this order.

The prayer of the present petitioner for bail is once again rejected.”

It is submitted by Mr. Rajendra Narayan, learned



senior advocate appearing for the petitioner that till date, charges have not been framed. He contended that since the petitioner is in custody, there is no fault on his part and charges have not been framed either due to lapses on the part of the prosecution or due to systematic delay or due to obstructions created in the functioning of the court as a result of Covid-19 pandemic. He contended that by now, the petitioner has remained in custody for over three years and several other co-accused having more or less identical allegations have already been granted bail by different Benches of this Court. He has drawn my attention to the orders dated 10.07.2019, 13.08.2019, 17.08.2019 and 01.10.2019 passed in Cr. Misc. Nos. 72651 of 2018, 47740 of 2019, 30399 of 2019 and 51573 of 2019 respectively whereby co-accused Ajay Kumar @ Ajay Kashyap, Guddu Kumar, Anantpreet Singh Brar and Anand Sharma have been granted bail. He contended that the petitioner is a qualified engineer from NIT, Patna and having got roots in the society he is not likely to abscond or tamper with the evidence.

Mr. Anil Singh, learned Special Public Prosecutor for the Vigilance has vehemently opposed the prayer for grant of bail to the petitioner. He contended that offences alleged are quite serious and this Court has rejected the prayer for bail of



the petitioner twice on merits. He contended that on secret information that in the house of one Dinanath Singh situated at Mohalla Kanti Factory Road, Mahatma Gandhi Nagar on the first floor Pawan Kumar and Atul Rajan Sinha are involved in circulating question papers and answer sheets for cheating in the examination being conducted by the Bihar Staff Selection Commission for appointment on different posts in different departments in the State of Bihar, the informant along with other police officials raided the house occupied by Pawan Kumar and Atul Ranjan Sinha on rent. Seeing the police party, the three persons started fleeing, but were apprehended. The apprehended accused persons disclosed their names as Pawan Kumar, Vipin Kumar and Navnit Kumar. On interrogation, they revealed the names of other co-accused persons, who were involved in leaking question papers and answer-sheets of the examination held by the Bihar Staff Selection Commission. They revealed that they used to take Rs.6 lakhs from each candidate and also disclosed their *modus operandi* of transmitting answers to the examinees by using WhatsApp, Bluetooth and other electronic devices. He contended that during investigation, the role of the petitioner also transpired as one of the conspirators involved in the alleged offence. He



contended that delay in framing of charge may be due to several reasons and, on that ground, the petitioner should not be granted bail.

Having heard the parties and perused the materials on record, since there is no dispute to the fact that the petitioner is in custody since 19.04.2017 and the charges have yet not been framed and several other co-accused having more or less identical allegation have been granted bail by different Benches of this Court, he is directed to be released on bail on furnishing bail bond of Rs.50,000/- (Rupees 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. 11/2017, arising out of Agamkuan P.S. Case No. 44 of 2017, subject to the condition that one of the bailors must be a government servant and other one must be a close relative.

. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Senior



Secretary.

- (ii) The corrected copy of the order shall be transmitted by me from my email id to the Senior Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Sunil Kumar Singh, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Senior Secretary/registry for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

Kanchan/-

U		T	
---	--	---	--

