

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87502 of 2019

Arising Out of PS. Case No.-48 Year-1995 Thana- C.B.I CASE District- Muzaffarpur
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MANNU PRASAD SINGH @ MANNU PRASAD @ MANNU SINGH Son of
Late Kamala Prasad Singh Resident of Village and P.O.- Bagaura, P.S.-
Daraundha, District - Siwan.

... .. Petitioner

Versus

THE STATE OF BIHAR THROUGH VIGILANCE

... .. Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Nath Dubey
For the Opposite Party/s	:	Mr.Anjani Kumar (L.O Inc. Vig)
	:	Mr. Anil Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

5 06-07-2020 Heard Mr. Rabindra Nath Dubey, learned counsel

for the petitioner and Mr. Anil Singh, learned counsel for the

Vigilance Department.

The petitioner seeks bail in anticipation of his

arrest in connection with Special Case No. 99/2002 arising

out of Patna Vigilance P.S. Case No. 48/1995 instituted for

the offences under Sections 420, 467, 468, 471, 409, 201,

109 and 120 (B) of the Indian Penal Code and Section 13(2)

read with Section 13(1)(d) of the Prevention of Corruption

Act, 1988, pending in the Court of learned Special Judge

(Vigilance)-cum-Additional District & Sessions Judge -VI,



Muzaffarpur.

Learned counsel for the petitioner has submitted that the First Information Report has been lodged in the year 1995 with respect to an occurrence, which took place in the year 1989. That time, the petitioner was serving as a Clerk in the Forest Department at Chapra. The petitioner has since superannuated from service in the year 1998 and is staying at his village home. He retired from the post of Clerk from the district of Gopalganj.

It has further been submitted that apart from there being no cogent material against him for his prosecution in the present case, he was not also made aware of his having been made an accused in this case. There is nothing on record to indicate that any summons were issued to the petitioner or that he was intimated about the existence of the present case. He was never contacted by the Investigating Agency and was never called upon to explain anything. However, from the impugned order, it appears that after submission of chargesheet, cognizance was taken and petitioner has been shown as an absconder.



Mr. Anil Singh, learned Advocate for the Vigilance Department has submitted that this petition is not maintainable in view of the fact that the petitioner is an absconder and no anticipatory bail can be granted to an absconder.

The records of the case do not reveal that the petitioner was ever informed about the institution of the case or submission of chargesheet. Records of the Vigilance Court, as has been argued by learned counsel for the petitioner, does not contain any endorsement of the fact that any attempt was made to inform the petitioner to appear before the Investigating Agency or before the Court.

In that view of the matter, it has been argued that since the petitioner has retired from the service in the year 1998 and has been residing at his village home, he cannot be saddled with the disadvantages of an absconder.

However, the fact remains that the petitioner has been declared an absconder.

This court finds that the petitioner has reasons for not appearing before the Investigating Agency or the Trial



Court.

However, considering the fact that he has been declared an absconder, I am not inclined to grant anticipatory bail to him. The prayer of the petitioner for grant of anticipatory bail is rejected.

However, if the petitioner surrenders before the court below and seeks bail, the court below shall consider all these aspects in corrective perspective, specially that the First Information Report has been lodged in the year 1995 with respect to an occurrence which took place in the year 1989; the petitioner superannuated in the year 1998 and there is no endorsement of the fact that the petitioner was ever summoned to appear before the Investigating Agency or the Court, and thereafter shall pass order in accordance with law, preferably on the same day, without being prejudiced by the fact that the present petition has not been entertained.

(Ashutosh Kumar, J)

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