

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29461 of 2021

Arising Out of PS. Case No.-1 Year-2017 Thana- C.B.I CASE District- Patna

RAJENDRA SINGH @ SHASTRI Son of Late Munnilal Singh Resident of
Flat No.402, Usha Apartment Patliputra Colony, P.s.- Patliputra, Dist.- Patna.
... .. Petitioner/s

Versus

Central Bureau of Investigation, through Superintendent of Police, C.B.I.
Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Malti Kumari
For the C.B.I. : Mr.Bipin Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 01-12-2021 Heard Mr. Yogesh Chandra Verma, learned Senior Advocate assisted by Mr. Satish Kumar Sinha, learned Advocate for the petitioner, Mr. Bipin Kumar Sinha, learned Advocate for the C.B.I. and Dr. K.N. Singh, learned Additional Solicitor General of India, who has appeared on the request of the Court.

The petitioner apprehends his arrest in connection with RC Case No. 1(S)/2017 registered for the offences punishable under Sections 120(B)/193/196/197/198/199/200/201/209/420/467/468/471 of the Indian Penal Code and Section 66 of the I.T. Act. Chargesheet has been submitted under Sections 120(B), r/w 193/419/420/467/468/471 of the Indian Penal Code.

The allegation against the petitioner is that one Machin, Md. Khalid and Md. Mustaque are in custody in connection with Economic Offence Case No. 17/2012 after the



chargesheet having been submitted and, subsequently, their bail applications were rejected up to this court.

The accused persons through one of their relatives, namely, Md. Akbar approached Raghuvir Kumar @ Sonu, Advocate Clerk of Danapur for securing their bail. Raghuvir Kumar contacted one Arun Kumar Tiwari for bail and a deal was struck for Rs. 1.5 Lakhs with Arun Kumar Tiwari for securing bail of the accused persons. Rs. 1.30 lakhs in installments was given to Arun Kumar Tiwari and Rs. 20,000/- was given to Raghuvir Kumar @ Sonu. Raghuvir Kumar @ Sonu admitted this fact during investigation as well as in the statement recorded under Section 164 Cr. P.C. before the learned Magistrate. CDR analysis of mobile phones of the all accused persons revealed that they were in contact with one another and had talked at the date of bail i.e., 01.06.2016.

It is further alleged in the chargesheet that the petitioner was entrusted this work of securing bail for Machin, Md. Khalid and Md. Mustaque by filing a bail application in the High Court, Advocate Clerk Chandradeo Prasad and Nand Kishore Singh @ Nandu filed Cr. Misc. No. 57055/2015 on behalf of the aforesaid three petitioners was signed through the A.O.R. Mr. Raj Nandan Prasad in the High Court. The bail



application prepared by the accused persons was made available to Nand Kishore Singh @ Nandu for filing. Nand Kishore Singh @ Nandu gave the same to Advocate Clerk Chandradeo Prasad to get it signed by the same Advocate on Record. Chandradeo Prasad got it signed on 23.11.2015. Affidavit was sworn by one Kalu Ram and he was identified by Late Binod Kumar, Advocate Clerk before the Oath Commissioner. Kalu Ram could not be located and examined during the investigation. Binod Kumar died on 05.06.2019 and his role was limited to identification of Kalu Ram in the affidavit dated 23.11.2015.

Mr. Raj Nandan Prasad, A.O.R. was paid a very petty amount for signing the bail application. Forged Vakalatnama was filed with the bail application and the Jail Superintendent has denied the signature which is said to have been executed by Machin, Md. Khalid and Md. Mustaque. Mr. Rajanandan Prasad did not argue the case, but the case was entrusted to Mr. Manoj Kumar Pandey, Advocate, who appeared along with the petitioner in the High Court for arguing the matter on behalf of the accused persons in custody.

Apart from discussing the role of other accused persons, the C.B.I. in chargesheet has said that the petitioner who is an Additional Public Prosecutor requested Manoj Kumar



Pandey for appearing in the case without disclosing the fact and manipulations made in the bail application and Mr. Manoj Kumar Pandey appeared in the Court. The petitioner was also present in the Court and he assisted and briefed Mr. Manoj Kumar Pandey, Advocate. The accused persons were granted bail by this Court considering the period of custody undergone by them.

It is further stated in the chargesheet that the investigation reveals that initially Economic Offence P.S. Case No. 11/2012 was mentioned in the said petition, but later on, pages No. 2 and 5 of the said bail petition were removed from the original petition and replaced with new pages showing the case No. as 17/2012. These pages were substituted just before the case was to be heard in the High Court on 01.06.2016 by Ramdhar Ram, Peon of the High Court. A copy of the F.I.R. annexed with the bail petition was in respect of the Economic Offence P.S. Case No. 11/2012 dated 05.10.2012. During investigation, it has come that no such F.I.R. was registered by the E.O.U., Patna against the aforesaid three accused. Later on, F.I.R. No. 11/2012 was changed to 17/2012 and photocopy of F.I.R. No. 17/12 was used by initially changing F.I.R. No. 11/12 and later on 17/12. Similarly, the case was changed from 11/12



to 17/12 on Fardbeyan on 05.10.2012. Seizuerlist dated 05.10.2012 and impugned order dated 15.10.2012 passed by Additional Sessions Judge, VII, Patna cum Spl. Judge, N.D.P.S. Patna also before hearing. From the aforesaid fact, it is clear that forgery was committed in the bail application to secure bail from this Court. It has also come during investigation that the petitioner was in constant touch with main accused Arun Kumar Tiwari on phone who used to work with Arun Kumar Tiwari in bail fraud case in High Court.

The Chargesheet details further materials collected during the investigation against the accused persons and the petitioner.

Cognizance was taken after submission of chargesheet by the Special Judge, C.B.I. and, thereafter, summons were served. The anticipatory bail application of the petitioner was rejected on 05.03.2021 by the A.D.J. XII, Patna.

It has been submitted by learned Senior Advocate appearing on behalf of the petitioner that the material collected during investigation against this petitioner by the C.B.I. is that he was in constant touch with the main accused Arun Kumar Tiwari and he was the person who handed over bail application to Manoj Kumar Pandey, for arguing the case, he was present in



Court and assisted Mr. Manoj Kumar Pandey during the course of hearing. It is also argued by Mr. Verma, that the petitioner has not put his signature on the bail application at any stage, he was not an Advocate on Record in that case and he was not the Additional Public Prosecutor appearing in that case.

Mr. Verma, also submits that the petitioner was made accused in two more cases of similar nature in which he was arrested by the C.B.I. and nothing prevented the C.B.I. to remand the petitioner in this case also as the investigation of this case was pending. This goes to show that the C.B.I. was not interested in the custodial interrogation of the petitioner. It is further submitted by Mr. Verma that it is a case based on documentary evidence, there is no allegation by the C.B.I. that the petitioner during all these years has tried to tamper with the evidence of the case. He also submitted that the petitioner is a practicing Advocate and is continuing with his practice in the High Court and still appearing in the case in this High Court and there is no chance of tampering of evidence of absconding in the matter. He also undertakes that the petitioner will appear in the case as and when required and directed.

On the other hand, learned counsel for the C.B.I. Mr. Bipin Kumar Sinha, submitted that the petitioner has conspired



with Mr. Arun Kumar Tiwari for obtaining bail of criminals whose bail application was rejected earlier and in the present case his involvement has been found in three cases including the present one. He further submits that though there is no allegation against the petitioner of tampering with evidence, but nothing prevents him in tampering with the evidence in future.

Considering the aforesaid facts and the materials available on record, it appears that the petitioner is now no more required by the C.B.I. for investigation. The allegations against the petitioner are yet to be proved during trial. However, the petitioner undertakes to appear in the Trial Court as and when directed.

What weighs heavily in the mind of the Court while considering this petition is that the petitioner was never remanded in connection with the present case for custodial interrogation and it seems that now the C.B.I. after chargesheet does not require the petitioner's presence except for his appearance in the trial.

In view of the aforesaid facts and circumstances, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, let the petitioner above named be released on bail, in the event of his arrest or surrender before the



court below within a period of four weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I., 1st, Patna in connection with R.C. Case No. 01 (S) /2017, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C., subject to the condition that one of the bailors should be the wife of the petitioner.

It is also directed that the petitioner will co-operate in the trial and will appear on the dates as required and directed by the trial Court.

If the petitioner tampers with the evidence then C.B.I. can move for cancellation of anticipatory bail granted to the petitioner.

With the aforesaid directions and observations this application is allowed.

(Sandeep Kumar, J)

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