

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36377 of 2021

Arising Out of PS. Case No.-350 Year-2020 Thana- CHAPRA TOWN District- Saran

Kanhai Yadav, aged about 52 years, Male Son of Late Shivilal Yadav, Resident of Village - Ghoratap, PS- Bihta, District – Patna.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
For the Vigilance	:	Mr. Anil Singh, Special PP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-07-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 15.07.2021, which was allowed.

3. Heard Mr. Ajay Kumar Thakur, learned counsel for the petitioner and Mr. Anil Singh, learned Special PP for the Vigilance.

4. The petitioner apprehends arrest in connection with Nagar PS Case No. 350 of 2020 dated 26.06.2020, instituted under Section 7(a) of the Prevention of Corruption Act, 1988.

5. The allegation against the petitioner is that he, being an officer in the Fire Brigade Department at Chapra, had gone to the shop of Rajeev Kumar Gupta on 23.06.2020 and had started



filling up a form without inspecting the shop and had demanded Rs. 5,000/- for NOC which was given to him in an envelope and that he had also taken away a 500 gms. bottle of Horlicks without paying for the same. It is further alleged that when the informant, who was the Senior District Commandant Home Guards-cum-District Fire Brigade Officer, Saran (Chapra) went to the shop on 26.06.2020 at 5:30 PM, from the CCTV footage dated 22.06.2020 at 4:30 PM, the petitioner was seen receiving an envelope and keeping it in his file and while he was going away had taken a 500 gms. bottle of Horlicks without paying.

6. Learned counsel for the petitioner submitted that the allegation is false for the reason that the CCTV footage in question is of 22.06.2020 and not 23.06.2020, as has been alleged and most importantly, only an envelope is seen to have been given without there being any indication as to what was inside the same. Further, it was submitted that because the petitioner had to attend a birthday party on that day, he had gone there to buy an envelope and he had also bought a 500 gms. bottle of Horlicks for which he had paid in advance and was taking away the Horlicks bottle. It was submitted that during departmental proceeding, the informant has admitted to the fact that the CCTV footage is dated 22.06.2020 and that only an envelope is seen being taken by the



petitioner but there is no indication as to what was inside the envelope. Learned counsel submitted that the petitioner had submitted his report with regard to the shop in question on 20.06.2020 itself and, thus, there was no occasion for him to ask for money after he had done his job. It was further submitted that the petitioner has a bright career and has been given various awards and was also recently promoted which was not liked by his colleagues and they have manipulated the present complaint. Learned counsel submitted that the petitioner has no other criminal antecedent.

7. Learned Special PP for the Vigilance submitted that it has come during investigation, which is verified from the CCTV footage, that the petitioner did receive an envelope and also had taken away a 500 gms. bottle of Horlicks. It was submitted that the presumption would be that there was money in the envelope for the reason that it is an admitted position that the petitioner had to submit a report with regard to the shop in question. Learned APP submitted that even if the stand is that he had already submitted a report on 20.06.2020, the same was known only to him and further it can very well be an antedated report. Moreover, it was submitted that the plea of taking the envelope for going to a birthday party and then also walking away with a 500 gms. bottle



of Horlicks clearly shows that the petitioner has a lot to explain and the same would be at the stage of trial. He submitted that witnesses have also supported the prosecution case and further that no shopkeeper would get involved in any intra-departmental rivalry between the officers as they have to run their business and would not create problem for themselves in future.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

9. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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