

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8859 of 2021**

Arising Out of PS. Case No.-10 Year-2017 Thana- C.B.I CASE District- Patna

Shakesh Kumar @ Saket Kumar S/O Late Kusheshwar Singh Resident Of
Mohalla A/P C/O Mahendra Prasad Sinha, Chitragupta Marg, New Jakkanpur,
District-Patna Permanent R/V-Jagdishpur, Makundpur, P.O And P.S-Jandaha,
District-Vaishali.

... .. Petitioner

Versus

1. Central Bureau of Investigation through S.P. C.B.I. Officer of Patna
2. The Registrar, Patna High Court, Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Sandip Kumar, Sr. Advocate Mr.Bauye Jee Jha (B.J. Jha), Advocate
For the C.B.I.	:	Mr.Bipin Kumar Sinha, Standing Counsel

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 13-08-2021 Heard learned Senior Counsel for the petitioner and Mr.

Bipin Kumar Sinha, learned Standing Counsel for the Central

Bureau of Investigation.

Petitioner, in the present case, is seeking regular bail in
connection with C.B.I./ACB Patna Case No. RC 10(A)/2017
registered for the offences punishable under Section 120(B), 420,
468, 471 of the Indian Penal Code. He is in custody since
27.06.2019.

Learned Senior Counsel for the petitioner submits that
the allegation against the petitioner is that he being an Advocate
Clerk had committed an act of forgery and fraudulently filed a bail
petition on behalf of an accused by forging the signature of the

Advocate on the Vakalatnama and the filing papers. The case has been registered on the direction of learned Predecessor Bench of this Court. Considering the nature of the allegations, the learned Predecessor Bench had directed for lodgment of the First Information Report and accordingly the prosecution was launched against the petitioner.

Learned Senior Counsel submits that the petitioner is in custody in connection with this case since 27.06.2019 i.e. for more than two years two months but till date charge has not been framed and there is no likelihood of completion of trial in near future.

It is his submission that considering the nature of allegations and the maximum punishments prescribed under those provisions, the judicial custody of the petitioner of more than two years is may be one of the grounds for consideration of prayer for bail of the petitioner.

It is his further submission that in the case of **P. Chidambaram Vs. Directorate of Enforcement** reported in **2019(9) SCC 63**; the Hon'ble Supreme court has repeated the earlier views that an accused cannot be kept in incarceration with an intention to punish him if his presence may be secured in course of trial and the trial can proceed without any hindrance.

Mr. Bipin Kumar Sinha, learned Standing Counsel for the Central Bureau of Investigation has opposed the prayer for bail

of the petitioner. It is submitted that petitioner has got four criminal antecedents, however in one of them since the charge-sheet was not filed against him he has been granted privilege of Section 167(2) Cr.P.C. Mr. Sinha accepts that the petitioner is in custody for two years two months and according to him the case is still before the learned Magistrate.

Considering the facts and circumstances of the case, the allegations against the petitioner is that of commission of forgery of records, however on finding that the petitioner has remained in jail for over two years and till date the case is before the learned Magistrate, charge has yet not been framed and in the present days pandemic situation when the courts are not running in physical form the trial is not expected to commence in near future, this Court directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I. - III, Patna in connection with C.B.I./ACB Patna Case No. RC 10(A)/2017, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar

to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that in case the petitioner is found involved in tampering with the evidence or interfering with the course of trial, the C.B.I. may take steps for cancellation of bail of the petitioner.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.