

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10302 of 2021

Arising Out of PS. Case No.-19 Year-2020 Thana- C.B.I CASE District- Muzaffarpur

KUMAR SHAMBHU SINGH @ KUMAR SHAMBHU SARAN SINGH
S/O LATE BAIDNATH SINGH THE THEN HEAD CLERK CIVIL
SURGEON OFFICE, BETTIAH, RESIDENT OF MOHALLA
MATHIYADIH, WARD NO.17, P.S-CHATUNI, DISTRICT-EAST
CHAMPARAN.

... .. Petitioner

Versus

THE STATE OF BIHAR THROUGH THE VIGILANCE

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Anuj Kumar, Advocate
For the State	:	Mr. Humayou Ahmad Khan, APP
For the Vigilance	:	Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

7 12-08-2021 Heard the parties in virtual Court proceeding.

The petitioner is languishing in custody for the offence punishable under Section 7(a) of the Prevention of Corruption Act.

Allegation is that the petitioner being head clerk in the office of civil surgeon demanded illegal gratification from the contractor and was trapped by the Vigilance authority while accepting bribe.

Learned counsel for the petitioner submits that the petitioner has got only one criminal antecedent. He is in custody since 15.10.2020. Investigation of the case is already complete. The truth is that there were several complaints against the said



contractor in the department and he was just pressurizing to close those matters and on refusal false trap was managed.

Reliance has been placed on the judgment of the Hon'ble Supreme Court in P. Chidambaram case vide Cr. Appeal No. 1831 of 2019 as well as Constitution Bench Judgment in Gurbaksh Singh Sibbia vs. State of Punjab (1980) 2 SCC 565. In para 21 of P. Chidambaram's case, a three Judges Bench of the Hon'ble Apex Court observed as follows:-

“21. Thus from cumulative perusal of the judgments cited on either side including the one rendered by the constitution Bench of this Court, it could be deduced that the basis jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the



triple test or the triple test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case to case basis on the facts involved therein and securing the presence of the accused to stand trial.”

Since investigation of the case is already complete and petitioner is ready to cooperate with the trial, there is no need for further detention of the petitioner as under trial prisoner. Hence, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance, North Bihar, Muzaffarpur in connection with Special Case No. 19 of 2020 arising out of Vigilance P.S. Case No. 19 of 2020 , with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The petitioner shall regularly attend the court on the date fixed till framing of the charge.



(c) The petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(d) The petitioner shall not leave the country without permission of the trial Court.

(Birendra Kumar, J)

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