

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34532 of 2022

Arising Out of PS. Case No.-27 Year-2021 Thana- VIGILANCE District- Patna

Manoj Kumar, Son of Late Chandra Mohan Lal, Resident of Village - Surhari
P.S.- Amarpur, District - Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Home, Govt. of Bihar, Patna Bihar
2. The Superintendent of Police - cum- the Police Station officer, Vigilance Police Station, Vigilance Investigation Bureau, Govt. of Bihar, 6 Circular Road, Patna.
3. The High court of Judicature at Patna through the Registrar General Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate. Mr. Kumar Praveen, Advocate
For the State	:	Mr. Md. Matloob Rab, A.P.P.
For the Vigilance	:	Mr. Rana Vikram Singh, Advocate.
For the Patna High Court:	:	Mr. Sanjeev Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 21-12-2022 Heard Mr. Mrigank Mauli, Sr. Advocate assisted by

Mr. Kumar Praveen, learned counsel appearing on behalf of the

petitioner and Mr. Md. Matloob Rab, learned A.P.P. for the

State.

Let the defect(s) be removed within two weeks of the
complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with
Special Vigilance Case No. 12 of 2021 arising out of Vigilance
P.S. Case No. 27 of 2021 for the offence punishable under
Sections 7(a), (c)/12 of the Prevention of Corruption Act, 1988
read with Section 120B of the Indian Penal Code.



At the outset, learned counsel appearing on behalf of the State Vigilance seeks permission to rectify certain typographical mistake in course of the day.

Permission is granted.

Learned senior counsel appearing on behalf of the petitioner submitted that the petitioner had earlier moved before this Court in Cr. Misc. No. 52162 of 2021 and the same was dismissed as withdrawn in the circumstance that a forged medical certificate recommending higher treatment was produced before this Court for early hearing of the bail application. The learned counsel of the said bail application, in view of order dated 06.01.2022 upon instruction of the *pairvikar* of the petitioner in presence of the opposite parties had sought permission to withdraw the said bail application and accordingly it was dismissed as withdrawn vide order dated 19.01.2022. In such circumstances, learned senior counsel submitted that the matter be heard on merits.

Learned senior counsel Mr. Mrigank Mauli submitted that allegation against the petitioner is accepting bribe amount of Rs. 55,000/- from the informant/complainant on behalf of co-accused Mr. Alok Ranjan (Assistant Labour Commissioner) in his chamber, where the raid was conducted and petitioner along



with co-accused were allegedly caught red handed, however, the trap amount of Rs. 55,000 was recovered from co-accused Alok Ranjan. He further submitted that from perusal of the complaint on which basis F.I.R. has been lodged and the vigilance which had proceeded for trap team have not followed the provision of law and in arbitrary manner apprehended the petitioner and implicated him in the present case. The post trap memorandum confirms the fact that a sum of Rs. 55,000/- was recovered from the possession of the co-accused and on these ground he pleaded his false implication. Learned counsel further submitted that co-accused has already been released on bail from whose possession team has recovered the amount of Rs. 55,000/- red handed vide order dated 06.04.2022 passed in Cr. Misc. No. 53245 of 2021. He further submitted that the petitioner is in custody since 09.07.2021 and charge sheet has already been submitted. The petitioner may be directed to be released on bail subject on any condition imposed by this Court. The petitioner undertakes to abide by all the conditions imposed by this Court.

Mr. Rana Vikram Singh, learned counsel appearing on behalf of the State Vigilance submitted that the petitioner was the main mediator and he had negotiated with the complainant-



Mr. Vijay Kumar and he is the only one who accepted the money and handed it over to co-accused Mr. Kumar Alok Ranjan (Assistant Labour Commissioner). The F.S.L. report also confirms that the money was accepted by him though the same was recovered from the possession of co-accused Mr. Kumar Alok Ranjan. He further referred to Paragraph Nos. 55 and 89 of the case diary to show that the petitioner refused to cooperate with the investigation by refusing to give his voice sample and in this regard he submitted that such action of the petitioner is against the law laid down by the Apex Court in the case of ***Ritesh Sinha v. State of U.P.***, reported in ***(2019) 8 SCC 1***.

At this stage learned senior counsel appearing on behalf of the petitioner submitted that in fact the law laid down in Ritesh Sinha (supra) is in the favour of the petitioner.

Having heard the rival submissions of the parties and on perusal of records it appears that a trap was conducted on the basis of complaint made by Mr. Vijay Kumar in the office of Mr. Kumar Alok Ranjan (Assistant Labour Commissioner). The petitioner was allegedly found in the chamber of co-accused-Mr. Kumar Alok Ranjan, where the petitioner was apprehended by the trap team. Record reveals that trap money was recovered from the possession of the co-accused, Mr. Kumar Alok Ranjan



and he has already been released on bail vide order dated 06.04.2022 passed in Cr. Misc No. 53245 of 2021. The petitioner has remained in custody since 09.07.2021. The charge sheet has already been submitted in the present case and there is no question of tampering with the evidence or influencing the witnesses and also the fact that the trial is also not likely to be concluded in near future. The learned counsel has also undertaken on behalf of the petitioner that the petitioner will abide by the conditions imposed by this Court. In such circumstances the petitioner has prima facie made out a case to be released on bail.

The Apex Court in Criminal Appeal No. 227 of 2018, *Dataram Singh vs. State of Uttar Pradesh & Anr* decided on 06.02.2018 has held as under:

“1. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal



jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception”.

Recently, the Apex Court in *Manno Lal Jaiswal Vs the State of Uttar Pradesh & Anr* has observed that while granting bail, the relevant considerations are (i) nature of seriousness of the offence; (ii) character of the evidence and circumstances which are peculiar to the accused; and (iii) likelihood of the accused fleeing from justice; (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and (v) likelihood of his tampering.

It is well settled that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the Court while exercising its jurisdiction. “*A person is believed to be innocent until found guilty*”.

The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs. 25000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge cum Special Vigilance Judge, Bhagalpur in connection with Special Vigilance Case No. 12 of 2021 arising out of



Vigilance Case No. 27 of 2021 (Tr. No.-509 of 201), subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

The learned trial Court is directed to conclude the trial expeditiously taking note of the nature of allegation made in the trap case relating to Special Vigilance Case No. 12 of 2021 arising out of Vigilance P.S. Case No. 27 of 2021.

Accordingly, the bail application stands disposed of.

(Purnendu Singh, J)

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