

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36962 of 2022

Arising Out of PS. Case No.-18 Year-2022 Thana- VIGILANCE District- Patna

Brijesh Ram, Son of Shiv Ram, Resident of Village- Bansgaon Manjhariya
P.S.- Bhairoganj, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Vigilance Investigation Bureau, Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manan Kumar Mishra, Sr. Advocate Mr. Vishwajeet Kumar Mishra, Advocate Mr. Aakash, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Advocate
For the Opposite Party/s	:	Mr. Satya Nand Shukla, APP
For the Informant	:	Mr. Zainul Abedin, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 15-09-2022 Today the matter is being listed on the urgent motion slip filed by the learned counsel for the petitioner on the ground that the petitioner happens to be Mukhiya of Panchayat and he is in custody since 07.04.2022 and as per Section 18(5) of the Gram Panchayat Raj Act, 2006, the petitioner will be removed from his post if he remains in custody for more than six months.

2. Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

3. Heard Mr. Manan Kumar Mishra, learned senior counsel appearing on behalf of the petitioner, Mr. Arvind Kumar appearing on behalf of the vigilance and Mr. Zainul Abedin,



learned counsel for the informant as well as Mr. Satya Nand Shukla learned APP for the State.

4. The petitioner seeks regular bail, who is in custody in connection with Patna Vigilance P.S. Case No. 18 of 2022 registered for the offence punishable under Section 7(a) of the Prevention of Corruption Act.

5. The prosecution case is based on a written complaint filed by the informant alleging therein that on different dates Gram Sabha was organized in connection with different works in presence of all the villagers, in which resolutions in respect of certain works was passed and the same was handed over to the petitioner, who happens to be the Mukhiya of Gram Panchayat Raj Basgaon Manjaria Panchayat. It is further alleged that the informant met the petitioner and requested for uploading of resolution on the Website, then the petitioner demanded a bribe of Rs.5,000/- per resolution for uploading. The informant has disclosed that fact to the Vigilance Department and on the complaint made by the informant a Pre-trap Memorandum was prepared by the investigating officer of the case on 07.04.2022 and a raiding team along with the informant reached at village Piparia and the petitioner was contacted on his mobile, whereupon he came and caught red



handed while accepting the bribe money of Rs.15,000/-.

6. Learned counsel for the petitioner submits that the informant is non-else, but the husband of the Deputy Mukhiya of Basgaon Manjharia Panchayat and he is the only person, who is going to be benefited after sending the petitioner behind the bar. He next submits that there was a previous enmity between the informant and the petitioner wherein the petitioner has opposed the candidature of the wife of the informant at the time of election. He next submits that from the F.I.R. it would be evident that the petitioner was arrested from Chhotki Patti More allegedly for the charge of taking bribe, but surprisingly the Chemical test is to be done 56 Km away to the spot at District Circuit House at Bettiah, though in a trap case, the F.I.R. needs to be prepared on spot, but in the present case, the trap was conducted at 11.35 AM and the F.I.R. was registered at around 5.00 PM, which also smacks the suspicion and mala fide. It is next submitted that nothing was recovered from the possession of the petitioner at the time when he was caught and moreover the independent witnesses of the present case have not supported the prosecution case. He further submits that the entire allegation with regard to demand of bribe appears to be highly improbable as whatever resolutions were made in Gram



Sabha, the documents of the same are to be given to Panchayat Secretary with the help of the Executive Assistant and thereupon the plan was to be uploaded on the Gram Panchayat Development Website and the petitioner being the Mukhiya has no role in uploading any resolution. While concluding his submission, he lastly submits that the petitioner, being people's representative, having fair antecedent, is in custody since 08.04.2022, and, moreover, after completion of investigation, charge-sheet has been submitted.

7. On the other hand, learned counsel for the Vigilance Investigation Bureau vehemently opposes the bail application and in support of his submission he filed a counter affidavit stating therein that the petitioner was caught red handed while accepting bribe money of Rs.15,000/-. Moreover in course of verification, the conversation with respect to demand of bribe money was secretly audio recorded by the verifier in a device given to him by the SHO, Vigilance P.S., Patna. During the course of Pre-Trap proceeding the bribe money of Rs.15,000/- was recovered from the right hand of the petitioner and the description of the recovered notes were matched with the description mentioned in the Pre-Trap memorandum. Further the Post-Trap Memorandum was signed



by the Trap team members and independent witnesses. He next submits that when the hands of the petitioner was washed and put into the solution of Sodium Carbonate, it turned pink. He lastly submits that due to arrest of the petitioner, who happens to be people's representative, a huge crowd was gathered and so apprehending the law and order problem, the Trap team along with the complainant, witnesses and the petitioner were compelled to move the District Circuit House, Bettiah where the further exercise was done.

8. Learned counsel appearing on behalf of the informant also opposes the bail application and accepted the submissions made on behalf of the Vigilance Investigation Bureau and submits that the petitioner was caught red handed while accepting the bribe and, as such, he does not deserve the privilege of bail.

9. Having regard to the submissions made on behalf of the parties and taking into consideration the fact that the entire investigation has come to an end and no further custodial interrogation and investigation is required and the charge-sheet has already been submitted, apart from the sanction for prosecution against the petitioner has been accorded by the competent authority, and as such keeping the petitioner behind



the bar would serve no further purpose, the petitioner having fair antecedent, is in custody since 07.04.2022, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 50,000/- (Rupees fifty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, Muzaffarpur in connection with Patna Vigilance P.S. Case No. 18 of 2022, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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