

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61280 of 2021**

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna

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Kameshwar Singh, S/o Late Ram Balak Singh, R/o village- Gokhula, P.S.-
Baruraj, District- Muzaffarpur, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police, CBI, Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anand Tiwari, Advocate

For the Opposite Party/s : Mr. Avanish Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

7 08-08-2022 Heard learned counsel for the petitioner and learned
counsel for the C.B.I.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with CBI/ACB/Patna Case No. 0232017A0011 dated 05.07.2017 registered for the alleged offences under Sections 120B, 420, 468 and 471 of the Indian Penal Code.

As per prosecution case, the petitioner and others hatching a criminal conspiracy made an attempt to secure regular bail from this Court in NDPS Case No. 141 of 2013 arising out of Kalyanpur P.S. Case No. 189 of 2013 by changing the whole FIR, interpolated impugned order as well as by suppressing material facts, however the forgery was noticed by this Court and the Registrar,



Hon'ble Patna High Court, Patna was directed to conduct an inquiry who later on ordered to register an FIR to the CBI and consequently a case has been registered against the petitioner and others as RC No. 11A of 2017.

It further transpires that the petitioner initially filed Cr. Misc. No. 8490 of 2017 before the Patna High Court with a prayer for bail in connection with Kalyanpur P.S. Case No. 189 of 2013. The prayer for his bail was rejected vide order dated 11.04.2014. Thereafter, the petitioner renewed his prayer for bail vide Cr. Misc. No. 48632 of 2014 but the same was again rejected vide its order dated 17.12.2014. However, thereafter the petitioner made 3rd attempt vide Cr. Misc. No. 21816 of 2015 but in paragraph no.2 of the instant petition it was wrongly mentioned that the petitioner never moved this Hon'ble Court either for anticipatory or regular bail. The 3rd bail application was filed with wrong P.S. Case No. bearing Kalyanpur P.S. Case No. 185 of 2013 but after stamp reporting the P.S. Case No. was changed as 189 of 2013 by making interpolation in para no. 1 of the application. Even in accusation part of the FIR some changes were made and the quantity of seized ganja was interpolated as 14 packets of 1KG each instead of 14 packets of 10KG each thereby the weighment of the recovery was slashed down from 140 KG to 14 KG but later on the said application was permitted to be withdrawn by order dated 17.07.2015 and lastly Cr. Misc. No. 38328 of 2015 was filed with wrong P.S. Case No. 185 of 2013 which was subsequently



interpolated in petition, seizure list and the FIR as Kalyanpur P.S. Case No. 189 of 2013 and even the weighment of the seized ganja was slashed down to 14 KG from 140 KG. The fraudulent acts of the petitioner came to the knowledge of the authorities and a criminal case was instituted in which the petitioner is seeking bail in the instant petition.

The learned senior counsel for the petitioner submits that the petitioner has no role in the alleged interpolation or forgery being committed in the documents of the Court. Actually it is the handi work of the co-accused Ram Babu Jaiswal who fraudulently got bail by making interpolation in the petition, seizure list and FIR of Kalyanpur P.S. Case No. 189 of 2013 wherein the quantity of recovered Ganja was mentioned as 14 KG in place of actual seized quantity of 140 KG. The co-accused got bail vide order dated 16.01.2015 passed in Cr. Misc No. 1879 of 2015.

Learned counsel further submits that though the co-accused got the bail, he was always apprehensive that his fraudulent act would come to the notice if bail was moved on behalf of the other co-accused and ground of parity will be sought. So after getting Vakalatnama from this petitioner, co-accused applied the same trick and changed the details in the FIR and other documents. When the case diary and the stage of the trial had been called for by the Co-ordinate Bench hearing the bail petition of this petitioner, it was very cleverly withdrawn. Thereafter, the co-accused made the 4th attempt



for securing bail for this petitioner, but this petitioner has no concern with the filing of the 4th petition for his bail vide Cr. Misc. No. 38328 of 2015. Even the son of the petitioner who is stated to have sworn the affidavit denied that the affidavit bore his signature and he has been exonerated by the prosecuting agency as well. So whatever has been alleged against this petitioner, all acts are only the misdeed of co-accused Ram Babu Jaiswal, who despite orders of this Court, he has not surrendered and even the police has failed to apprehend him after lapse of more than five years. The learned counsel further submits that this petitioner has been remanded in this case on 13.11.2020, though he has been in custody since 12.09.2013 and the charge sheet has been submitted in this case on 30.07.2019. But the trial is still continuing and is not likely to conclude soon.

Learned counsel appearing on behalf of the C.B.I. submits that the finding of the enquiry conducted by the High Court is that this petitioner along with co-accused Ram Babu Jaiswal are the main conspirators. The petitioner and other co-accused tried to abuse the process of the Court and made substantial changes in the FIR and by committing forgery, co-accused was successful in getting bail from this Court though later on his bail was cancelled. The learned counsel further submits that the allegations are that of conspiracy and ultimately petitioner would have been the beneficiary if he were successful in getting the bail from this Court. The learned counsel further submits that even in the third petition filed for bail, there has



been interpolation in the number of FIR and other details and the criminal antecedent of the petitioner was concealed. However, the learned counsel concedes that the son of the petitioner who allegedly swore the affidavit in the 4th bail petition filed by the petitioner has not been charge-sheeted by the prosecuting agency not finding his involvement in this case. The learned counsel further submits that charge-sheet has already been submitted.

Perused the records.

Having regard to the submissions made hereinabove and considering the period of custody of this petitioner and considering the fact that the charge-sheet has been submitted in this case since three years back but the trial is not expected to conclude in near future, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Magistrate, CBI, Patna in connection with CBI/ACB/Patna Case No. R.C.0232017A0011 dated 05.07.2017, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be the son of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of



the petitioner will be liable to be cancelled by the
court concerned.

(Arun Kumar Jha, J)

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