

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61239 of 2021

Arising Out of PS. Case No.-22 Year-2021 Thana- VIGILANCE District- Patna

ABHAY KUMAR S/o SRI KAILASHPATI SHRIVASTAVA R/o VILLAGE-
RAMPUR DIH, P.O-HANUMAN NAGAR, P.S-VISHANPUR, DISTRICT-
DARBHANGA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. VIGILANCE INVESTIGATION BUREAU, BIHAR, PATNA. PATNA.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Soni Srivastava, Advocate Mr. Satyapal Singh, Adv.
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, Adv.
For the Informant	:	Mr. Arvind Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-02-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State through video conferencing.

The petitioner seeks bail in connection with Special Case No. 19 of 2021 arising out of Vigilance P.S. Case No. 22 of 2021 for the offenses punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (As amended in 2018).

The complainant, who is said to be a Head-Master of the Middle School Narayanpur, Piro in his complaint has alleged that the petitioner, who was the then Block Education



Officer at Piro, Bhojpur, has asked to submit Cash book, ledger book, pass book and cheque book leveling allegation of financial irregularities upon the complainant vide letter No. 2013 dated 09.03.2021 and upon the direction of the petitioner, the complainant produced nine registers on 17.03.2021 before the petitioner and on being found certain irregularities in the registers, the complainant was asked to submit a show cause by the petitioner. It has further been alleged that on submission of show cause as asked by the petitioner, the complainant was asked to meet his illegal gratification of Rs. 50,000/-. Upon being so the complainant filed a complaint before the SHO, Vigilance and thereafter, on the basis of verification report, an F.I.R. against the petitioner was registered on 17.06.2021. It is further alleged that a trap was conducted in which the petitioner is said to have been caught red handed by the trap team while accepting Rs. 80,000/- as bribe.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. She submits that the entire prosecution is out and out a false and fabricated one as it appears to be an outcome of a conspiracy hatched by the complainant himself just to save his skin from



the departmental proceeding initiated by the petitioner on the basis of allegation to the extent of committing financial irregularities in the government fund levelled against the complainant by way of a public complaint addressed to the petitioner as he happened to be the then Block Education Officer, Piro. She further submits that this is a case in which an illegal gratification amount of Rs. 50,000/- is alleged to have been made by the petitioner, but during the trap, enhanced amount of Rs. 80,000/- is said to have been recovered from the petitioner, therefore, the quantum of demand and its recovery itself creates doubt over the prosecution version as because if primarily a demand to the extent of Rs. 50,000/- has been raised by the petitioner, then as to why the complainant has brought Rs. 80,000/- to be paid to the petitioner during the trap. As a matter of fact, the petitioner has unfortunately been made an accused for discharging his duty with honest intention and with utmost care as he had issued a letter No. 213 dated 09.03.2021 against the complainant on the basis of public complaint dated 05.03.2021 made against the complainant, the public complaint is at Annexure-2 to the application. She further submits that taking note of the serious allegation with respect to financial irregularities committed by the complainant and after verifying the records, the petitioner



issued a show cause notice to the complainant vide letter No. 268 on 19.03.2021 and soon thereafter the complainant started to hatch a conspiracy in order to harass the petitioner so that the complainant may take undue favour of dropping the proceeding against him. She further submits that the petitioner happens to be a bonafide officer of the State Government and he has never demanded or accepted any bribe from the complainant. No any complaint prior to the complaint of complainant has been made against the petitioner by anyone. She reiterates that the entire prosecution is based on ornamental story and for that only the petitioner may not be liable to be prosecuted in this case. She further submits that the differences and the contradictions between the demand, on which the complaint was based on, and the quantum of recovery shows that no proper demand in any manner has been raised by the petitioner and, therefore, in absence of any demand or its acceptance, rigors of Section 7 of the Prevention of Corruption Act, 1988 does not come in to play in this case. The petitioner, who has been made a victim of circumstances, is rotting in judicial custody since 22.06.2021. Hence, the petitioner may be granted the privilege of bail.

Learned counsel for the vigilance has vehemently opposed the prayer for bail of the petitioner and submits



that the direct allegation of making illegal demand from the complainant is attributed to him and the amount in question has also been recovered from his possession.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, South, Bihar, Patna in connection with Special Case No. 19 of 2021 arising out of Vigilance P.S. Case No. 22 of 2021 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

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

(3) The police papers submitted by the vigilance in the Court shall be handed over to the accused-petitioner or



the counsel represented on behalf of the petitioner-accused in the court below.

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.

(Rajesh Kumar Verma, J)

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