

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65276 of 2021

Arising Out of PS. Case No.-1 Year-2017 Thana- C.B.I CASE District- Patna

MAHESH KUMAR CHOUDHARY Son of Late Moti Choudhary Resident of
Mohalla- Pulpar Khandak Road, Post- Bihar Sharif, P.S.- Bihar, District-
Nalanda.

... .. Petitioner/s

Versus

Central Bureau of Investigation/SCB/Patna. PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kishor Prasad

For the C.B.I. : Mr.Bipin Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 31-03-2022 Heard Mr. Yogesh Chandra Verma, learned Senior Advocate assisted by Mr. Satish Kumar Sinha, learned Advocate for the petitioner, Mr. Bipin Kumar Sinha, learned Advocate for the C.B.I. and Dr. K.N. Singh, learned Additional Solicitor General of India, who has appeared on the request of the Court.

The petitioner apprehends his arrest in connection with RC Case No. 1(S)/2017 registered for the offences punishable under Sections 120(B)/193/196/197/198/199/200/201/209/420/467/468/471 of the Indian Penal Code and Section 66 of the I.T. Act. Chargesheet has been submitted under Sections 120(B), r/w 193/419/420/467/468/471 of the Indian Penal Code.

The allegation against the petitioner is that one



Machin, Md. Khalid and Md. Mustaque are in custody in connection with Economic Offence Case No. 17/2012 after the chargesheet having been submitted and, subsequently, their bail applications were rejected up to this court.

The accused persons through one of their relatives, namely, Md. Akbar approached Raghuvir Kumar @ Sonu, Advocate Clerk of Danapur for securing their bail. Raghuvir Kumar contacted one Arun Kumar Tiwari for bail and a deal was struck for Rs. 1.5 Lakhs with Arun Kumar Tiwari for securing bail of the accused persons. Rs. 1.30 lakhs in installments was given to Arun Kumar Tiwari and Rs. 20,000/- was given to Raghuvir Kumar @ Sonu. Raghuvir Kumar @ Sonu admitted this fact during investigation as well as in the statement recorded under Section 164 Cr. P.C. before the learned Magistrate. CDR analysis of mobile phones of the all accused persons revealed that they were in contact with one another and had talked at the date of bail i.e., 01.06.2016.

It is further alleged in the chargesheet that Rajendra Singh @ Shastri was entrusted this work of securing bail for Machin, Md. Khalid and Md. Mustaque by filing a bail application in the High Court, Advocate Clerk Chandradeo Prasad and Nand Kishore Singh @ Nandu filed Cr. Misc. No.



57055/2015 on behalf of the aforesaid three petitioners was signed through the A.O.R. Mr. Raj Nandan Prasad in the High Court. The bail application prepared by the accused persons was made available to Nand Kishore Singh @ Nandu for filing. Nand Kishore Singh @ Nandu gave the same to Advocate Clerk Chandradeo Prasad to get it signed by the same Advocate on Record. Chandradeo Prasad got it signed on 23.11.2015. Affidavit was sworn by one Kalu Ram and he was identified by Late Binod Kumar, Advocate Clerk before the Oath Commissioner. Kalu Ram could not be located and examined during the investigation. Binod Kumar died on 05.06.2019 and his role was limited to identification of Kalu Ram in the affidavit dated 23.11.2015.

Mr. Raj Nandan Prasad, A.O.R. was paid a very petty amount for signing the bail application. Forged Vakalatnama was filed with the bail application and the Jail Superintendent has denied the signature which is said to have been executed by Machin, Md. Khalid and Md. Mustaque. Mr. Rajanandan Prasad did not argue the case, but the case was entrusted to Mr. Manoj Kumar Pandey, Advocate, who appeared along with the petitioner in the High Court for arguing the matter on behalf of the accused persons in custody.



It has been mentioned in the Chargesheet against the petitioner that he as the Personal Assistant has typed the ordersheet and the P.S. Case Number at the top just below the Criminal Miscellaneous Number has been deliberately changed as P.S. Case No. 17 of 2012 from 11 of 2012.

It has been submitted by Mr. Verma, learned Senior Advocate for the petitioner that no sanction has been granted for prosecuting the petitioner and there is no direct or indirect involvement of the petitioner in the commission of the crime. The petitioner being the Personal Assistant was duty bound to record the order dictated by the Hon'ble Judge. Cognizance has been taken after submission of the chargesheet by the Special Judge, CBI, Patna, and, thereafter, summons have been issued and the anticipatory bail application of the petitioner has been rejected by the Special Judge, CBI, Patna. He also submits that similarly situated accused, Rajendra Singh @ Shastri having serious allegations has been granted anticipatory bail vide order dated 01.12.2021 passed in Cr. Misc. No. 29461 of 2021. It has also been submitted by Mr. Verma, learned Senior Advocate that there is no allegation of any tampering with the evidence and the case is mostly based on documentary evidence.

No custodial interrogation of the petitioner was



required. It is also submitted that the petitioner has now been promoted to the post of Deputy Registrar-cum-Senior Secretary in this High Court and there is no chance of his absconding and he will participate in the trial.

Mr. Bipin Kumar Sinha, learned counsel for the C.B.I. has submitted that the petitioner has acted illegally and his complicity has been found in the commission of the crime.

Considering the aforesaid facts and the materials available on record, it appears that the petitioner is now no more required by the C.B.I. for investigation. The allegations against the petitioner are yet to be proved during trial. However, the petitioner undertakes to appear in the Trial Court as and when directed.

What weighs heavily in the mind of the Court while considering this petition is that the petitioner was never arrested in connection with the present case for custodial interrogation and it seems that now the C.B.I. after chargesheet does not require the petitioner's presence except for his appearance in the trial.

In view of the aforesaid facts and circumstances, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, let the petitioner above named be



released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Magistrate, C.B.I., Patna in connection with CBI Case No. R.C. 1(S)/2017, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and also subject to the condition that one of the bailors should be the wife of the petitioner.

It is also directed that the petitioner will co-operate in the trial and will appear on the dates as required and directed by the trial Court.

If the petitioner tampers with the evidence then C.B.I. can move for cancellation of anticipatory bail granted to the petitioner.

With the aforesaid directions and observations this application is allowed.

(Sandeep Kumar, J)

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