

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64808 of 2022

Arising Out of PS. Case No.-09 Year-2022 Thana- C.B.I CASE District- Patna

Sanjay Kumar Mishra Son of Late- Bindeshwari Prasad Mishra Resident Of Village- Manguraha, Police Station- Govindganj Distt, East Champaran(Motihari) At Present Head Hawaldar, Office Of Assistant Commissioner Custom(Preventive) Motihari.

... .. Petitioner/s

Versus

The Union of India Through CBI Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
	:	Mr. Arvind Kumar, Advocate
	:	Mr. Kumar Rajdeep, Advocate
For the Opposite Party/s	:	Mr.Nivedita Nirvikar, APP
For C.B.I.	:	Mr. Avanish Kumar Singh, Advocate S.P.P., CBI
	:	Mr. Ambar Narayan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 07-12-2022 Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with CBI/ACB/Patna RC0232022A0009 (referred as R.C. No. 09(A) 2022) registered for the offence under Section 120 of the Indian Penal Code and Section 7 of Prevention of Corruption Act, 1988.

The accused/petitioner is named in the F.I.R. and is in custody since 13.08.2022.

The allegation against the petitioner is to accept bribe of Rs. 20,000/- from a local scrap dealer for smooth passes across the Indo-Nepal border.



Learned counsel appearing on behalf of the petitioner submitted that the petitioner was falsely implicated in present case for the reason that one hot exchange took place with CBI officers, when they went to verify the complaint against Superintendent of Custom, Motihari on 01.02.2022 and for said oblique motive, the petitioner was falsely implicated in present case. It is further submitted that it was the assistant of the petitioner, who received money and subsequently, it has been passed to petitioner, who was not even under knowledge that money was accepted as bribe. It is also submitted that the left hand of the petitioner did not turn pink on chemical test in the background of allegation that the alleged currency note was counted by using both hands, creating a serious doubt over entire allegation/implication. It is also submitted that the petitioner never faced this type of allegation in last 38 years of his service. It is further submitted that there is a contradiction, as regard to place and witnesses, while preparing pre-trap memorandum and post-trap memorandum, as regard to this occurrence. While concluding the argument, it has been submitted that charge-sheet has been submitted, without obtaining chemical analysis report and moreover investigation of this case is completed, as such, there is no chance of tampering with the evidence.

Learned S.P.P. appearing on behalf of the CBI, while



opposing the prayer of bail submitted that there is a specific allegation against this petitioner to accept bribe by misusing his official position of Custom Department, whereas fairly conceded the fact that one hand of petitioner did not turn pink on chemical analysis/Sodium bi-carbonate solution test.

Considering the facts and circumstances as mentioned above, and by taking note of sodium bi-carbonate solution test coupled with the fact that charge-sheet has been submitted, without chemical analysis report, let the petitioner, above named, is directed to be released on bail in connection with CBI/ACB/Patna RC0232022A0009 (referred as R.C. No. 09(A) 2022) **after framing of charge**, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court of Special Judge, CBI-II, Patna/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

Archana/-

(Chandra Shekhar Jha, J)

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