

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26081 of 2023

Arising Out of PS. Case No.-139 Year-2021 Thana- KHAJEKALA District- Patna

Abhishek Agrawal @ Abhishek Bhopalka Son Of Bishnu Agarwal @ Bishnu Prasad Agarwal R/O Flat No.22, Ajay Nilayan Apartment, Nageshwar Colony, P.S.- Buddha Colony, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manan Kumar Mishra, Sr. Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV ORDER

6 31-08-2023 Heard Mr. Manan Kumar Mishra, learned senior counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since 26.11.2022 in connection with Khajekala P.S. Case No. 139 of 2021 corresponding to G.R. No. 1738 of 2021, F.I.R. dated 13.05.2021 for the offences punishable under Sections 170, 186, 419, 420, 468 and 471 of the Indian Penal Code.

3. According to prosecution case, the SHO (informant) while discharging his duties received a call on his mobile and the caller disclosed himself as IPS Officer, Vikas Vaibhav instructing him to open the lock of two shops situated in front of Bazar Plaza. Again the pressure was made to get open the lock of those shops and the senior police officials were informed in this regard and they have instructed the informant to take appropriate steps after verifying the name and address of the



holder of the said mobile number which happens to be of the petitioner.

4. Learned Senior counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offences as alleged in the F.I.R. He further submits that as per the allegation, the petitioner disclosed himself to be an IPS officer, namely, Vikas Vaibhav and he made pressure to do illegal works. He further submits that there has been no complaint made by the said IPS Officer against the petitioner and the petitioner has been made a scapegoat in order to dilute the departmental infighting and differences in E.O. Case No. 33 of 2022. He further submits that just because the said mobile/SIM card belongs to the petitioner cannot make him liable for this offence as there is no voice record sample of the petitioner available to suggest that the petitioner has only made the phone calls and there is every possibility that this could be a case of SIM cloning attack. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 26.11.2022.

5. Vide order dated 27.07.2023 a report was called with regard to the stage of trial. Report of the learned Trial



Court dated 14.08.2023 reveals that the case records is at the stage of receiving copy of police paper and seven witnesses as per the chargesheet to be examined by the prosecution.

6. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in the near future and the petitioner is in custody since 26.11.2022.

7. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the CDR location of the petitioner suggests that the petitioner was involved in the said crime in question & CDR of petitioner suggests that the petitioner has also called the different Police Stations i.e. Pirbahore, Kotwali, Phulwari, Parsabazar etc. instructed the Officer-in-Charge of the aforesaid Police Station to do some work without authority and the petitioner carries six criminal antecedents other than the present one but fairly submits on the basis of supplementary affidavit that the petitioner is on bail in all the six cases. Lastly, submits that petitioner may enlarge on bail after framing of charge.

8. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail **after framing of charge** and on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the



satisfaction of the learned Judicial Magistrate 1st Class, Patna City, Patna in connection with Khajekala P.S. Case No. 139 of 2021 corresponding to G.R. No. 1738 of 2021, subject to the following conditions:-

i. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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.

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(Rajesh Kumar Verma, J)

