

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67091 of 2023

Arising Out of PS. Case No.-422 Year-2023 Thana- RAJIVNAGAR District- Patna

Niraj Kumar Son of Sri Vijay Prasad @ Vijay Kumar Resident of Village -
Akbarpur, P.S.- Akbarpur, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Chandra, Advocate

For the Opposite Party/s : Mr.Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-11-2023 Heard Mr. Shashank Chandra, learned counsel for the

petitioner and Mr. Yogendra Kumar, learned APP for the State.

2. The petitioner, in the present case, is seeking pre-arrest bail in connection with Rajiv Nagar P.S. Case No.422 of 2023 registered for the offences punishable under Section 7 of the Prevention of Corruption Act, 1988. The petitioner has got no criminal antecedent.

3. As per the prosecution story, the allegation against the petitioner is that for carrying out construction work of the informant, the petitioner, who is S.H.O. of Rajiv Nagar Police Station, demanded Rs.5,00,000/- as ransom. The further allegation is that A.S.I. Shambhu Kumar along with police party came at the construction site of the informant and forcibly taken away the brother of the informant and one Chandan Kumar to

the police station and after taking bribe of Rs.90,000/- they were released from police station.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the instant case. One of his submissions is that on the basis of the telephonic instructions received from the Dy.S.P. the apprehended persons were given the benefits of Section 41-A Cr.P.C. and were released on furnishing suitable bonds but after about a month from the date of lodging of the FIR being Rajiv Nagar P.S. Case No.224 of 2023, the petitioner received a show cause notice issued by the senior Dy.S.P., Law and Order, Patna along with which a copy of the complaint of the informant which was received in the office of senior Dy.S.P. on 31.05.2023 was enclosed. The petitioner was called upon to submit an explanation to the same which the petitioner submitted.

5. Learned counsel submits that the Dy.S.P. upon receiving the reply from the petitioner suo moto without any approval from the S.S.P., Patna or any other senior police officials carried an enquiry into the allegations of the informant and within two days of the submission of the reply of the petitioner, the senior Dy.S.P., Law and Order vide his letter no.2928 dated 12.06.2023 submitted his report to the S.S.P.,

Patna and the copy of the enquiry report forms part of the present FIR.

6. It is submitted that false evidences have been deliberately fabricated against the petitioner in order to implicate him in the instant case.

7. Learned counsel submits that so far as the CCTV footage of the police station is concerned, it only shows that the petitioner and one Nilesh Yadav sat in the vehicle but does not show that the petitioner received any bribe money from the said Nilesh Yadav by way of illegal gratification in order to release the two persons namely Amit Ranjan and Chandan Kumar who had been arrested in connection with Rajiv Nagar P.S. Case No.224 of 2023 for indulging in making unlawfully constructions over the Housing Board land situated in Rajiv Nagar.

8. On the other hand, learned A.P.P. for the State submits that the allegations against the petitioner who is a police officer and was posted as S.H.O., Rajiv Nagar police station are serious in nature. He arrested two persons in connection with Rajiv Nagar P.S. Case No.224 of 2023, brought them to the police station and thereafter one Nilesh Yadav who was the ex-ward councillor informed the father of the accused that the

accused persons may be released if the S.H.O. is paid Rs.90,000/- as per his demand. In fact the said Nilesh Yadav received Rs.50,000/- on his mobile phone from the account of the wife of the informant and thereafter the father of the accused persons arranged another Rs. 40,000/-. The said Nilesh Yadav went to the police station where as per the preliminary enquiry report he sat from the right side of the Bolero vehicle whereas this petitioner entered into the same Bolero car from the left side and both of them came out after two minutes and thereafter both the accused persons who were earlier arrested were released and allowed to go with said Nilesh Yadav.

9. Learned APP submits that the story created by the petitioner that both the persons were given the benefit of Section 41-A Cr.P.C. is only a concoction of the whole story in order to explain the detention of the two persons in the police station. It is pointed out that the petitioner cannot show that any prior notice under Section 41-A Cr.P.C. was given to those persons and they had come to the police station on their own rather it is his own stand that both the persons were arrested by the petitioner.

10. Having heard learned counsel for the petitioner and learned APP for the State as also on perusal of the records,

this Court has noticed that the present FIR in which the petitioner has been made accused has been lodged after a kind of preliminary enquiry conducted on the basis of the complaint received by Dy.S.P., Law and Order, Kotwali from one Premit Ranjan who happened to be the brother of the accused of Rajiv Nagar P.S. Case No.224 of 2023. He has alleged that on 23.04.2023 the police sub-inspector Shambhu Kumar from Rajiv Nagar police station came to the construction site and informed that further construction cannot proceed with the quantum of money which has been paid to the S.H.O. and he started abusing the informant and his associate Chandan Kumar. He took away said Chandan Kumar and the brother of the informant Amit Ranjan who happened to be the Lieutenant Colonel. The informant claimed that these facts may be verified from the CCTV camera of the police station.

11. It is further alleged that on his request the ex-ward councillor Nilesh Yadav talked to the S.H.O. for release of both the persons but the S.H.O. demanded a bribe of Rs.1,00,000/-. Thereafter, Rs.50,000/- was sent through pay phone to Nilesh Yadav and Rs.40,000/- was again given to him. In this manner, Nilesh Yadav having received Rs.90,000/- went to the police station to hand it over to this petitioner and these things may be

verified from the voice recording and CCTV footage of the police station. The said Nilesh Yadav went inside the police station premises in his bolero vehicle with money and thereafter the petitioner went inside the Bolero and received the money. The brother and associate of the informant were released after taking their signature on acknowledgment of notice from them. It is alleged that in this manner the S.H.O. is indulged in collection of huge money while allowing illegal construction so far and those who do not pay are harassed in the name of lodging of FIR.

12. This Court has further noticed from the materials on the record that on receipt of the allegation petition, the senior police officers directed for a kind of preliminary enquiry, CCTV footage of the police station was collected and the senior police officer having verified the entire materials having noticed that a cognizable offence has taken place, the present FIR has been lodged in which the petitioner has been made accused.

13. Considering the seriousness of the allegations, the allegations in which the petitioner being S.H.O. of the police station was allegedly involved in accepting bribe money and the kind of materials which form part of the F.I.R. and have been placed before this Court, this being a case under Prevention of Corruption Act, the gravity of

the offence and the materials are such that this Court is not inclined to grant privilege of anticipatory bail to the petitioner. Prayer is refused.

14. This application is dismissed.

(Rajeev Ranjan Prasad, J)

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