

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36068 of 2024

Arising Out of PS. Case No.-26 Year-1989 Thana- VIGILANCE District- Patna

Ramashankar Tripathi @ Ramashankar Tiwari Son Of Late Baccha Tiwari
Resident of Village - Karnapatti, Post Office - Madhopur Bujurg, P.S. -
Taraiya Sujana, District - Kushinagar (UP)

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Vigilance Dept., Govt. Of Bihar, Patna 4th Floor, Soochna Bhawan, Opposite New Secretariat, Patna - 800015
2. The Director General, Vigilance Investigation Bureau, 6 Circular Road, Patna-800001 Bihar
3. The Superintendent Of Police - Cum- Sho, Vigilance Investigation Bureau, 6 Circular Road, Patna-1 Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate Ms. Roona, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 23-07-2024 Heard Mr. P. N. Shahi, learned senior counsel assisted by Ms. Roona, learned counsel for the petitioner; Mr. Arvind Kumar, learned counsel for the Vigilance and Mr. Jharkhandi Upadhyay, learned APP for the State.

2. In this case, the petitioner is seeking for quashing the order dated 22.01.2004 passed by the learned Special Judge, Vigilance, Muzaffarpur in Special Case No.1 of 2002 arising out of Vigilance P.S. Case No.26 of 1989 by the learned Special Judge has taken cognizance against the



petitioner on the basis of supplementary charge-sheet and instead of issuing summon at first instance ordered to issue warrant of arrest against the petitioner. Further prayer of the petitioner is to quash the consequential order dated 15.01.2013 by which warrant of arrest has been issued against the petitioner and also the orders 17.11.2014 and 14.09.2017 by which it was ordered to issue processes under Sections 82 and 83 of the Cr. PC against the petitioner.

3. Though the petitioner has prayed for quashing of the cognizance order dated 22.01.2004 but during the course of argument, learned Senior Counsel for the petitioner has limited his argument challenging the orders dated 15.01.2013, 17.11.2014 and 14.09.2017 and submits that the petitioner is a senior citizen aged about 80 years and he had no knowledge about the case and therefore, he could not appear after the cognizance was taken against him and coercive steps have been taken by the Special Judge for his appearance.

4. Learned Senior Counsel further submits that the petitioner undertakes to appear regularly in the Court of the Special Judge if the aforesaid orders are quashed as he had no intention to avoid appearance in the trial Court. He also submits that all the other accused persons i.e. Ramchandra Jha and eight



others have been acquitted by Court below vide judgment and order dated 28.08.2014 passed in Special Case No. 01 of 2002.

5. Mr. Arvind Kumar, learned counsel for the Vigilance opposes the prayer of the petitioner and submits that the petitioner should not be given any relief by this Court as he is an absconder.

6. Learned APP for the State has also supported the stand of the Vigilance.

7. I have considered the submissions of the parties. In the facts of the case and considering the age of the petitioner, I am of the view that the contention of the petitioner may be genuine and he should not be sent to jail at this stage because he could not appear before the Special Judge.

8. In these circumstances, this application is allowed.

9. The orders dated 15.01.2013, 17.11.2014 and 14.09.2017, by which non-bailable warrant of arrest, process under Sections 82 and 83 have been issued are hereby quashed.

10. The petitioner will appear in the Court below and he shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge Vigilance,



Muzaffarpur/concerned Court in connection with Special Case No. 1 of 2002 arising out of Vigilance P.S. Case No. 26 of 1989.

11. At the time of furnishing bail bonds, he will give an undertaking that he will co-operate in the trial and shall appear personally or through his lawyer regularly. After being released on bail, the petitioner is given liberty to file an application for discharge after supply of police papers if the same has not been supplied. If such an application is filed, the same shall be disposed of by the Special Judge in light of the law laid down by the Supreme Court in the case of **Kanchan Kumar Vs. State of Bihar** reported in **(2022) 9 SCC 577**, after considering all the submissions of the petitioner including the submission that co-accused Ramchandra Jha and eight other accused persons of the case have been acquitted in trial.

12. With the aforesaid observations and directions, this application is allowed to the above extent.

(Sandeep Kumar, J)

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