IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32493 of 2024

Arising Out of PS. Case No.-2 Year-2021 Thana- VIGILANCE District- Patna

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Ashok Kumar @ Dr Ashok Kumar Son of Dr. Rajendra Prasad R/O- House no.3, Professor Colony, DDU Gorakhpur University, P.S.- Civil Lines, Dist.- Gorakhpur, Uttar Pradesh

... ... Petitioner/s

Versus

The State of Bihar through Special Vigilance Unit, Patna. Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate
		Mr. Ayush Kumar, Advocate
		Mr. Ranjeet Kumar, Advocate
		Mr. Kanishk Kaustubh, Advocate
For the Opposite Party/s:		Mr. Rana Vikram Singh, (S.V.U.)

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

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12 08-04-2025 Heard learned counsels for the parties.

2. The petitioner apprehends his arrest in connection with Special Case No.48 of 2021, arising out of Special Vigilance Unit (SVU) P.S. Case No.02 of 2021, registered for the offfences u/s 120(B), 420 of IPC and Sections 12 r/w, 13(2) r/w. 13(1)(b) of the P.C. Act 1988.

3. As per the FIR, Dr. Rajendra Prasad, while working as the Vice Chancellor, Magadh University, Body Gaya hatched a criminal conspiracy with the assistance of Finance Officer, Veer Kunwar Singh University; the Registrar, Patliputra University, private firms namely, M/s Poorva Graphics & M/s XLICT Software Pvt. Ltd. and other unknown accused persons and fraudu-

lently and dishonestly cheated the Government to the extent of Rs.20 crores during the year 2019-21 in the matter of purchase of various items related to the use of University during examination and otherwise. It is alleged that ignoring the advice of the competent officer, the accused persons raised bill to the extent of Rs.20 crores from Magadh University and Veer Kunwar Singh University without assessing the requirement and violating the tender procedure and justification of rates etc. The Finance Officer, Veer Kunwar Singh University and Registrar, Patliputra University cleared all the fraudulent bills of the private firms named above.

4. Learned Senior Counsel for the petitioner submitted that the petitioner is innocent and has not committed any offence. He has been falsely implicated in this case. Petitioner has no criminal antecedent. The FIR has been registered on the basis of some information received by the official of SVU. The allegations made against the petitioner is frivolous and misplaced as it has been levelled in respect of purchase of various items related to the use for University during the examination and otherwise for the period of 2019-2021. The allegation levelled against the petitioner for ignoring the advice of the competent officers for the purpose of facilitating the alleged offence. The S.V.U. has

proceeded to conduct a mischievous investigation and in furtherance of its ulterior motives to satisfy certain purposes, has charge-sheeted the petitioner in an arbitrary manner.

5. It is further submitted that the petitioner has been made accused on the basis of an illegal raid conducted by the S.V.U. at his ancestral house situated at Gorakhpur, Uttar Pradesh wherein the S.V.U. has recovered a huge cash amount from the said premises and despite being provided with a genuine and logical explanation for the source of money recovered from the ancestral house of the petitioner, the S.V.U. has proceeded to frame the petitioner in the instant case. Petitioner has been made accused only on the ground that he is the son of the prime accused, namely, Dr. Rajendra Prasad.

6. It is further submitted that Ld. Special Judge, Vigilance, Patna took cognizance upon the supplementary chargesheet and was further pleased to issue summon against the petitioner, requiring his presence before him on 08.02.2024. Upon receipt of the said summon, the petitioner preferred an application for anticipatory bail and while filing his bail application, the petitioner has apprised the learned Court that since he was not arrested by the investigating agency during the course of investigation, therefore, in lieu of the various judicial pronouncements as

passed by the Apex Court, he is entitled for anticipatory bail.

7. It is submitted that despite being provided with the details in respect of email communications made by the petitioner during the course of investigation with the respondent S.V.U. and the details pertaining to the appearance of the petitioner before the S.V.U. for the purpose of joining the investigation, the learned Special Judge has erroneously reached at a conclusion that the petitioner was non-cooperative during the course of investigation. He erroneously dismissed the bail application of the petitioner by adopting misconceived notion of law in respect to the accused, who has not been consciouly arrested during the course of investigation and the investigating agency proceeded to file charge sheet without taking the petitioner in custody.

8. It is further submitted that the recovered amount belonged to Pyari Devi Memorial Welfare Trust and the petitioner was the Managing Trustee of the same, therefore, no allegation of economic offence is made out against the petitioner.

8. In support of his contention, he relied upon the judgments of the Supreme Court (1) **Santosh S/o Dwarkadas Fafat Vs. State of Maharastra (2017) 9 SCC 714** (2) **Siddharth Vs. State of Uttar Pradesh & Anr. (2022) 1 SCC 676** (3) **Aman Preet Singh Vs. CBI through Director 2021 SCC Online SC**

941 (4) **Satender Kumar Antil Vs. CBI & Anr. Reported as (2021) 10 SCC 773** (5) **Mahdoom Bava Vs. CBI reported as 2023 SCC OnLine SC 299**.

9. Learned Spl.PP for the Vigilance Special Unit opposed the prayer for bail. It is further submitted that the petitioner is the son of the prime accused of this case, Dr. Rajendra Prasad and at the time of raid at Gorakhpur house of the accused Vice Chancellor, the petitioner was present there and colossal amount of cash Rs.1,82,75,000/- was recovered besides gold jewellery worth Rs.42,84,247/- and silver jewellery worth Rs.19,620/- was recovered. (CD No.14 dated 16.12.2021/ para no.51 to 54).

10. In spite of several notices dated 27.01.2022, 07.02.2022, 23.02.2022 etc. u/s 160 of Cr.PC given to the petitioner, he avoided his appearance before Special Vigilance Unit, Patna. Thereafter, on 19.05.2022, he appeared before the I.O., and avoided answering most of the question on the pretext of illness and assured of appearing on 25.05.2022 but chosen not to appear. Thereafter, he appeared before the I.O. only three- four times but deliberately avoided answering questions on the pretext of illness and procuring documents. (CD No.42, 45, 53, 56, 59, 60, 77, 116, 91, 95/ para no.2).

11. With respect to the cash recovered at his Gorakhpur

house, the petitioner stated that the money belongs to Pyari Devi Memorial Welfare Trust but failed to show any document with respect to the same. On repeated query he produced a receipt book bearing Sl. No.01 to 50. On perusal of these receipts it shows that all these receipts are of date 27.10.2021 and on that very same date donation was received at Sant Kabir Nagar (Uttar Pradesh), at Patna (Bihar), at Jehanabad (Bihar), Gorakhpur (Uttar Pradesh) in a single day all these cash donations were alleged to have been received and person granting receipt is the same person which indisputably proves that all these documents have been created to justify the recovery of cash at Gorakhpur residence. (CD No.114, para no.2).

12. Regarding the balance sheet of Pyari Devi Memorial Welfare Trust, the Chartered Accountant appeared before the I.O. and stated that though he prepared the balance sheet but he never released it and never forwarded it to the accused because the accused had not supplied the required documents for verification and certification of the accounts mentioned in the balance sheet and he has never audited the aforesaid trust. (CD No.135, para-5).

13. Furthermore, Chartered Accountants of Gorakhpur on notice appeared and highlighted the financial irregularities in Pyari

Devi Memorial Trust which is evident from CD No.189, para-5 & 7 and CD No.2 & 3.

14. Thus, the abovementioned evidence shows the culpability and participation of the accused in the crime which further corroborates that he actively participated in accumulation of ill-gotten money with the held of his father Dr. Rajendera Prasad, the then Vice Chancellor of the Magadh University.

15. It is further submitted that the ratio laid down in the case of Siddharth (supra) that no insistence should be made for arrest of the accused at the time of forwarding the charge sheet. In this case, charge sheet has been submitted and cognizance was taken and summons were issued by the Court. In the case of Mahdoom Bava (supra), it was held that there is no need to arrest and remand the accused in custody, when the accused appear before the Court in response to summoning order.

16. It is lastly submitted that the petitioner is accused of committing economic offence, therefore, the present bail application is fit to be dismissed. He relied upon the judgment of the Apex Court in the case of **Devinder Kumar Bansal vs. The State of Punjab (Special Leave to Appeal (CRL). No.3247 of 2025) reported in 2025 LiveLaw (SC) 291**:-

> *23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipa-*

tory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of the public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the Courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature of aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that once the investigation is over and charge sheet is filed, the Court may consider to grant regular bail to a public servant- accused of indulging in corruption.

25. Avarice is a common frailty of mankind and Robert Walpole's famous pronouncement that all men have their price, notwithstanding the unsavoury cynicism that it suggests, is not very far from truth. As far back as more than two centuries ago, it was Burke who cautioned: "Among a people generally corrupt, liberty cannot last long". In more recent years, Romain Rolland lamented that France fell because there was corruption without indignation. Corruption has, in it, very dangerous potentialities. Corruption, a word of wide connotation has, in respect of almost all the spheres of our day to day life, all the world over, the limited *meaning of allowing decisions and actions to be influenced not by the rights or wrongs of a case but by the prospects of monetary gains or other selfish considerations.*

26. If even a fraction of what was the vox pupuli about the magnitude of corruption to be true, then it would not be far removed from the truth, that it is the rampant corruption indulged in with impunity by highly placed persons that has led to economic unrest in this country. If one is asked to name one sole factor that effectively arrested the progress of our society to prosperity, undeniably it is corruption. If the society in a developing country faces a menace greater than even the one from the hired assassins to its law and order, then that is from the corrupt elements at the higher echelons of the Government and of the political parties.

17. I have heard the parties at length and perused the record. It is admitted fact that the petitioner is also involved in the present case and similarly situated co-accused has been denied anticipatory bail by this Court in Cr. Misc. No.74836 of 2024 dated 13.02.2025, and also considering the ratio laid down by the Apex Court in the case of Devinder Kumar Bansal (supra) that if liberty is to be denied to an accused to ensure corruption free society, then the Courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature of aforesaid require denial of anticipatory bail, it has to be denied.

It is altogether a different thing to say that once the investigation is over and charge sheet is filed, the Court may consider to grant regular bail to a public servant- accused of indulging in corruption.

18. Considering the foregoing discussions, I am not inclined to grant bail to the petitioner. The prayer for grant of bail on his behalf is hereby rejected.

19. Accordingly, this application stands dismissed.

(Anjani Kumar Sharan, J)

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