

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36735 of 2024

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

Kauleshwar Prasad Sah Son of Shri Ram Swaroop Sah Resident of Navratanpur, Indra Nagar, Road No.- 7B, Behind Banwari Bhawan, Postal Park, P.S.- Kankarbagh, District - Patna (the then Finance Officer, Magadh University, Bodhgaya)

... .. Petitioner/s

Versus

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

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hemant Kumar, Adv.

For SVU Mr. Rana Vikram Singh, Law Officer, SVU

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

12 17-04-2025 Heard learned counsel for the petitioner, learned counsel for the Special Vigilance Unit.

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 under sections 109, 120B, 201, 409, 420, 467, 468, 471,506 of the Indian Penal Code as well as sections 13(2) r/w 13 (1) (b) r/w 12 of Prevention of Corruption Act.

3. As per the FIR, Dr. Rajendra Prasad, while working as the Vice Chancellor, Magadh University, Bodh Gaya hatched a criminal conspiracy with the assistance of Finance Officer, Veer Kunwar Singh University, the Registrar, Patliputra University private firms namely, Ms Poorva Graphics & M/s



XLICT software Pvt. Ltd and other unknown accused persons and fraudulently 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. The petitioner, who was officiating as the Finance Officer of Patliputra University, was deputed to Magadh University as Finance Officer by the order of the Chancellor/Hon'ble Governor of Bihar where he served in the capacity of Finance Officer from 15.04.2021 to 04.07.2021.

5. The allegation against the petitioner is that he connived with the main accused, Dr. Rajendra Prasad, the then Vice Chancellor and other accused persons to clear the fraudulent bills of accused nos. 3 and 4.

6. Learned counsel for the petitioner submits that



from bare perusal of the First Information Report, it can be inferred at the outset that the petitioner is not named in the FIR and his name has surfaced during the investigation and the charge-sheet has been submitted against the petitioner on 20.03.2023. It has been further submitted on behalf of the petitioner that petitioner is innocent and has been falsely implicated in the present case.

7. It has been further submitted that being the Finance Officer, the petitioner is bound to act in accordance with the orders of the Vice Chancellor. Section 16 of the Act also reflects that the Finance Officer has no role in making any financial decisions for the University, rather he holds a formal role as a co-signatory upon the payment of cheques. It has been further submitted that the petitioner had lodged complaints with secretary, Governor Secretariat about the mishaps of the University long before the initiation of the present case. Annexure-4 to the present application has been brought on record to substantiate the said submission.

8. The learned Special Public Prosecutor for the Vigilance (SVU) opposed the prayer for bail and has drawn the attention of this Court to the averments made in the counter affidavit filed on behalf of the SVU. It has been stated in



paragraphs-10, 13 and 14 of the counter affidavit that the petitioner was in connivance with the prime accused and other accused persons. There was a fraud in supply made by the accused nos. 2 and 3 and knowing these facts the Examination Controller and the petitioner signed the cheques. Hence, the petitioner is a part of criminal conspiracy due to which huge amount of Government of Bihar was misappropriated. The counsel for the Special P.P. for the SVU hence, submits that a huge loss has been caused to the state exchequer and the petitioner is part of the said conspiracy. The attention of the Court has also been drawn to the fact that the anticipatory bail application of several similarly situated accused persons have already been rejected by this Hon'ble Court.

9. In support of their contentions, both the learned counsel for the petitioner as also the learned counsel for SVU have relied upon the judgments of the Hon'ble Supreme Court. Learned counsel for the petitioner has relied upon the judgments in (1) **Santosh So Dwarkadas Fafat Vs. State of Maharashtra (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.

10. Learned Special P.P for the SVU has 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 anticipatory 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 un-savoury 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.”

11. After considering the rival contentions of the parties, it appears that there is strong allegation of conspiracy as against the present petitioner showing his involvement and also considering the fact that similarly situated co-accused persons have already been denied the anticipatory bail by co-ordinate benches of this Court vide order dated 13.02.2025 passed in Cr. Misc. No. 74836 of 2024, Vide order dated 08.04.2025 passed in Cr. Misc. No. 32493 of 2024, Cr. Misc. No. 22548 of 2024, Cr. Misc No. 33718 of 2024, Cr. Misc No. 31143 of 2024, Cr. Misc. No. 32191 of 2024, Cr. Misc. No. 32719 of 2024 and Cr. Misc. No. 83228 of 2024 and also considering the ratio laid down by the Apex Court in the case of **Devinder Kumar Bansal (Supra)**, I am not inclined to grant anticipatory bail to the petitioner and his prayer for bail is hereby, rejected.

12. This application stands dismissed.

(Soni Shrivastava, J)

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