

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67476 of 2025

Arising Out of PS. Case No.-39 Year-2022 Thana- VIGILANCE District- Patna

Fuleshwar Rajak Son of Madhu Rajak R/O Mohalla - Bishunpurdatt, And P.S.
- Purnea, Dist. - Purnea, PIN -854202.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance Department, Bihar, Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Baidyanath Prasad, Advocate Mr. Rahul Kumar Shukla, Advocate Mr. Shivam Kumar, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
CAV JUDGMENT

Date : 27-02-2026

Heard the learned counsel for the parties.

2. The present application has been filed by the petitioner for seeking following relief(s):

That this is an application for quashing of order dated 27.06.2025 passed by Learned Additional Session Judge XIV, Cum Special Judge (VIGILANCE), Bhagalpur in the discharge petition filed by petitioner dated 06-01-2025 in Special Case no 19 of 2022 arising out of Vigilance P.S. Case No-39 of 2022 under section 7(a)/7(b)/7(c)/12 of the P.C. Act 1988.

3. The facts giving rise to the present application is that the prosecution case arises from a written complaint dated 08.07.2022 submitted by the informant, Shiv Kumar



Verma, a licensed contractor under the Rural Works Department, Government of Bihar (Registration No. 2150291), before the Additional Superintendent of Police-cum-Station House Officer, Vigilance Police Station, Patna. The informant alleged that he had been awarded a contract under Agreement No. 23 SBD PMGSY-2019-2020 for construction work under the Pradhan Mantri Gramin Sadak Yojana (Package No. BR 01R 400). On 04.07.2022, he visited the Divisional Office, Rural Works Department, Araria, for release of his final payment. It is alleged that the petitioner, Phuleshwar Rajak (Junior Engineer), along with the concerned SDO and Assistant Engineer, demanded commission for clearing the final bill. According to the complaint, Rs. 62,000/- was allegedly demanded by the SDO and Rs. 40,000/- by the petitioner. Being unwilling to pay the alleged bribe, the informant approached the Vigilance authorities seeking legal action.

4. It has been submitted on behalf of the petitioner that the entire story of the prosecution is false and there is no material to show that there was any occasion for the petitioner to demand the amount so alleged.

5. The learned Counsel for the petitioner submits that opposite party has filed a counter affidavit in which there is



a transcript attached, which clearly states that the petitioner had neither demanded Rs. 40,000 (Forty Thousand) for himself nor he demanded Rs. 62,000(Sixty two Thousand) for his superiors. It is further submitted that the Investigating officer has failed to produce the documents and bills. It is next submitted that from the post-trap proceedings, it appears highly doubtful that the petitioner was allegedly found sitting on a chair holding Rs. 40,000 in his left hand, particularly when he had already been intercepted nearly an hour earlier, which renders the prosecution story ironical and improbable. The manner of interception suggests a mechanical implication by the police without credible basis. The petitioner was, in fact, discharging his official duties and was engaged in discussion and guidance regarding work matters with two contractors, namely Shri Mithlesh Jha and Shri Chandan Kumar Singh, at his residence. The informant allegedly entered the premises without being called, despite having no departmental work pending with the petitioner. The petitioner has thus been falsely implicated in the present case.

6. The learned Counsel for the petitioner submits that the provisions of the Prevention of Corruption Act, 1988 (for brevity, P.C. Act) are not attracted in the present case, as the petitioner never attempted to obtain any undue advantage,



which is evident from the recorded conversation itself, thereby excluding the applicability of Section 7(a); further, Section 7(b) is not made out since the alleged final bill, for which bribe is said to have been demanded as a reward, was not even in existence at the time of the alleged occurrence; moreover, Section 7(c) is also inapplicable as the petitioner, being a Junior Engineer, had no authority or jurisdiction over the preparation or sanction of the final bill or return of security deposit, the same being within the domain of the Executive Engineer and other superior officers, and his duty was confined only to preparing the Measurement Book and forwarding the report to his superior officer, namely Assistant Engineer Hemchandra Lal Karn, thus there was neither any inducement nor any improper performance attributable to the petitioner.

7. The Learned counsel for the petitioner has filled a supplementary affidavit which has been brought on record and it is contended that from reading of application by informant (complainant) on 08.07.2022, it speaks about demand of bribery for the purpose of payment of final bill of completing contract work done by complainant but from the document which is being filed with this supplementary affidavit, which was made available to the petitioner after 17.04.2025, clearly



speaks that the final bill of the contract work had already been paid and received on 07.07.2022 to the complainant. It is thus been submitted that the petitioner had no occasion to ask for gratification from the informant/complainant.

8. The learned counsel for the petitioner submits that the complaint was made in respect to refund of security money which has no concern with the petitioner rather it is related to power of executive engineer. It is next submitted that the charge sheet filed by the Investigating officer shows that there is no independent witnesses and the members of raiding party were made witnesses.

9. Learned counsel for the petitioner has submitted that from perusal of paragraph no. 57 of the case diary, it would appear that the post-trap memo was not prepared at the place of occurrence and thus it violates the provision of CrPC and Police Manual. The learned counsel referred to a judgment delivered by the Hon'ble Supreme Court in the case of ***B. Jayaraj v. State of A.P., (2014) 13 SCC 55***, wherein the Hon'ble Supreme Court has observed that merely possession and recovery of currency without proof of demand will not bring home the offence under Section 7 of the P.C Act. It has further been submitted that the same principle has been laid down in the



case of *State of Punjab v. Madan Mohan Lal Verma*, (2013) 14 SCC 153.

10. The learned Special Public Prosecutor appearing on behalf of the Vigilance, while opposing the application of the petitioner, has submitted that there was sufficient material found against him and, thereafter, the charge sheet has been filed, whereupon the cognizance was taken and subsequently, the discharge application filed by the petitioner was rejected.

11. Referring to the post and pre-trap memorandum, the learned Special Public Prosecutor has submitted that a raiding team was constituted and after following all the requirements under the law, the currency notes were applied with phenolphthalein powder mixed with sodium carbonate and, thereafter, in a well-laid trap, the petitioner was apprehended accepting Rs. 40,000/- as bribe. It has been submitted that there is no illegality in the conduct of the raid and the procedures as laid down was followed.

12. The learned Special Public Prosecutor, while referring to the audio scripts of the conversation between the accused/petitioner and other persons, submits that there is enough evidence to show that the conversation with regard to



demand and payment of money was being made and, therefore, at this stage, discharging the petitioner would not be proper and the defence of the petitioner cannot be taken into account at the present. It has further been submitted that the defence adopted by the petitioner to have never demanded or accepted any bribe from the complainants, in connection with the lifting of the iron scrap materials, is only a defence and merely because no work was pending with him while he was apprehended along with the currency notes, cannot be a ground for discharge.

13. The learned Spl. PP has relied upon the case of ***Padmakar Balkrishna Samant v. Abdul Rehman Antulay and Another; (1984) 2 SCC 183.***

14. Having heard the learned counsel for the petitioner as well as the learned Special PP for the Vigilance and upon perusal of the respective pleadings, certain facts are worth noting. The petitioner was apprehended with Rs. 40,000 in his left hand by the Vigilance salutes after completing the formalities of pre-trap memo and later post-trap memorandum was also prepared. It is also not in dispute that the complaint was initially verified by the officers of the Vigilance Investigation Bureau on 29.07.2022 and by taking turns, the Junior Engineer of Rural Works Department, Araria and also the



then Assistant Engineer, Rural Works Department, Work Division were called at a pan shop and the demand of Rs. 40,000 and Rs. 62,000 was accepted by them. It is also on record that there is an audio clip of the conversation of demand of bribe by the said two accused persons, including the petitioner. The preparation of pre-trap memorandum and subsequent preparation of post-trap memorandum after the recovery of G.C. notes from the petitioner is also on record.

15. Upon perusal of the FIR, the charge-sheet and the case diary, which was submitted by the learned counsel for perusal, the allegations on the petitioner as per the complainant Shiv Kumar Verma that for payment for construction in Bhirbhiri Palasmani RCC Bridge under Pradhan Mantri Gram Sadak Yojna, the accused persons including the petitioner were demanding Rs. 40,000 and Rs. 62,000 as bribe and since the complainant did not want to pay the same, he had approached the Cabinet Vigilance Investigation Bureau. The record suggests that there is an order vide letter no. 100 dated 17.02.2023 issued under the signature of the Secretary, Law Department, Government of Bihar whereby sanction has been granted against the petitioner and the other accused person, though the learned counsel for the petitioner has also submitted that even the



sanction order was not proper.

16. In view of the facts and circumstances of the case, it is clear that there is *prima facie* evidence of demand of bribe and the accused petitioner was apprehended along with Rs. 40,000 G.C. notes and therefore, in view of the judgment rendered by the Hon'ble Supreme Court in the case of ***Padmakar Balkrishna Samant v. Abdul Rehman Antulay and Another (supra)*** whereby it is a settled law now that at the time of framing of charge the test of *prima facie* case has to be applied. It is also a settled law that at the time of framing of charge, the defence provided by the accused cannot be looked into and no document which is not part of the record can be considered barring which are impeachable in nature and from the perusal of the same the prosecution case would be proved wrong. The judgments relied upon by the learned counsel for the petitioner in the case of ***B. Jayaraj (supra)*** and ***Madan Mohan Lal Verma (supra)*** would not come to any rescue to the petitioner, as in both the judgments the Hon'ble Supreme Court has taken that fact into consideration, where only possession and recovery of currency notes from the accused, without any proof of demand, was there.

17. On the contrary, in the present case, not only



the demand has been verified through the verifier, there is an audio recording of the same and it need not be mentioned that the correctness of such audio clip cannot be looked into at this stage.

18. In light of the foregoing discussion, it is evident that the petitioner has failed to demonstrate any jurisdictional error or perversity. The inherent powers under Section 482 CrPC are to be exercised sparingly and only to secure justice and not to re-appreciate evidence.

19. In view of the above, I do not find any illegality in the order impugned and as such the present application stands dismissed.

(Sourendra Pandey, J)

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AFR/NAFR	
CAV DATE	13.02.2026.
Uploading Date	27.02.2026.
Transmission Date	

