

Abhsihek Vs Central Bureau Of Investigation

Court: Madhya Pradesh High Court (Indore Bench)

Date of Decision: Jan. 24, 2025

Acts Referred: Bhartiya Nagrik Suraksha Sanhita, 2023 " Section 61(2), 482
Prevention of Corruption Act, 1988 " Section 7

Hon'ble Judges: Subodh Abhyankar, J

Bench: Single Bench

Advocate: Abhishek Rathore, Manoj Kumar Dwivedi, Deepak Purohit, Dy.Superintendent of Police

Final Decision: Dismissed

Judgement

JUDGMENTTAG-JUDGMENT

Subodh Abhyankar, J

1] They are heard. Perused the case-diary.

2] This is the applicant's first application under Section 482 of the Bhartiya Nagrik Suraksha Sanhita, 2023/Section 438 of Criminal Procedure Code,

1973 for grant of anticipatory bail, who happens to be an Narcotic Inspector, Central Bureau of Narcotics, Mandsaur, as he is apprehending his arrest

in connection with Crime No.RC0082024A0007/24 registered at Police Station CBI, ACB, Bhopal, District Bhopal for offences punishable under

Section 61(2) of BNS read with Section 7 of the Prevention of Corruption Act, 1988 (hereinafter to be referred to as Act of 1988).

3] The allegations against the applicant is that he was involved in the aforesaid case wherein bribe of Rs.1,20,000/-was demanded from the

complainant Badrilal, on the pretext of granting him opium licence, however, the bribe of Rs.1,10,000/- was received on behalf of the applicant by co-

accused Kantu kumar and Ram Niwas.

4] Counsel for the applicant has submitted that apparently, the applicant was not present on the spot and amount has also not been recovered from the

present applicant as he has been falsely implicated in the case as he has no power to grant the opium licence. It is also submitted that the licence was

already granted to the complainant even before the other co-accused persons were trapped.

5] Counsel for the applicant has further submitted that Section 7 of the Act of 1988 would not be applicable in the present case. Counsel has also

relied upon the decision rendered by the Supreme Court in the case Satender Kumar Antil V/S Central Bureau of Investigation and another

passed in Miscellaneous Application No.1849/2021 in Special Leave Petition (CRL.) No.5191 of 2021 dated 11/7/2022, and it is submitted

that since in the present case the maximum sentence provided is seven years only, the custodial interrogation of the applicant is not necessary as he is

ready to cooperate in the investigation, and in case, if he is arrested his reputation would be irreparably tarnished in the society.

6] Counsel for the respondent, on the other hand has opposed the prayer, and it is submitted that no case for interference is made out as the applicant

is involved in a serious case of corruption wherein a huge bribe of Rs.1,20,000/-was demanded from the complainant, and the other co-accused

persons have already been caught red handed along with a sum of Rs.1,10,000/-, who have also disclosed that they were acting on behalf of the

present applicant only. It is further submitted that a transcript of voice recorder is also available in which the applicant has clearly demanded the bribe

from the complainant. It is also submitted that the incident also took place in the office of the present applicant though in his absence, thus, it is

apparent that the applicant was deeply involved in the case, and his custodial interrogation is necessary.

7] In rebuttal, counsel for the applicant has submitted that the voice in the voice recorder is not of the present applicant, and some other person has

spoken to the complainant impersonating as the applicant.

8] Having considered the rival submissions, and on perusal of the case diary as also the decision rendered by the supreme Court in the case of

Satender Kumar Antil (supra), this Court does not find it to be a fit case for grant of anticipatory bail to the applicant, who is involved in a case of

corruption, and a huge amount of Rs.1,10,000/- has also been recovered from the other co-accused persons. In such circumstances, his custodial

interrogation is necessary, and thus, no case for interference is made out, and accordingly, the application being devoid of merits is hereby dismissed.

9] So far as section 7 of the Act of 1988 is concerned, it provides that a public servant, who obtains from any person an undue advantage with the

intention to perform or cause performance of public duty improperly or dishonestly either by himself or by another public servant shall be liable to be

punished, thus, it is not necessary that a person must receive the amount/undue advantage in his hands only, and there may be instances that he may

obtain the same through some other person, and in such circumstances, he cannot avoid his liability and cannot get away just by saying that he was not

caught red handed.

10] So far as the decision rendered by the Supreme Court in the case of Satender Kumar Antil (supra) is concerned, it is true that the supreme

Court has emphasized on giving bail to the accused persons in cases which are also covered by the decision in the case of Arnesh Kumar Vs. State

of Bihar and Another reported as (2014) 8 SCC 73 as also the mandate laid down in the judgement of the Supreme Court in the case of

Siddharth Vs. State of U.P. reported as 2021 SCC online SC 615, however, in a serious case of bribe like the present one where a Narcotic

Inspector himself is involved in demanding and taking huge bribe through another person to facilitate grant of opium licence, this court does not find it

to be a fit case for grant of anticipatory bail to the applicant, accordingly, the anticipatory bail stands dismissed.

11] Accordingly, the application stands dismissed.