

(2016) 06 JH CK 0089

JHARKHAND HIGH COURT

Case No: B.A. No. 5041 of 2016

Bhushan Kumar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: June 16, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 437
- Prevention of Corruption Act, 1988 - Section 13(2), 7

Citation: (2016) 4 AIRJharR 132

Hon'ble Judges: Mr. Anant Bijay Singh, J.

Bench: Single Bench

Advocate: Mr. Indrajit Sinha, Advocate, for the Petitioner; A.P.P, for the State

Final Decision: Disposed Off

Judgement

Mr. Anant Bijay Singh, J.—The petitioner has been made an accused in connection with Ranchi Vigilance P.S Case No. 26 of 2016 registered under Sections 7 and 13(2) of the Prevention of Corruption Act.

2. On the basis of written report given by Sunil Kumar alleging that the informant had to submit Rs. 50/- for appearing in apprenticeship examination for which he required registration number but Chandrika Bhagat who is the clerk cum Instructor of the ITI demanded Rs. 9000/- and 50/- for Challan for appearing in the examination. Thereafter, some conversation was made between them, on which the accused Chandrika Bhagat shown annoyance but after persuasion by the informant somehow agreed to receive Rs. 5000/- and told him to come with the bribe money on next day. The verification officer by concealing his identity had heard their conversation and he further inquired the matter secretly then found that the accused Chandrika Bhagat is renowned dishonest person.

3. Learned counsel for the petitioner submits that petitioner is a clerk cum Instructor. He submits that petitioner is not named in the First Information Report. He further submits that he is in custody since 7.4.2016. In this connection, learned counsel has referred to **(2012)1 SCC 40 Sanjay Chandra v. CBI**, which specifically lays down as follows:

"Sanjay Chandra v. CBI, Bail Application No. 508 of 2011, order dated 23.5.2011) Del), reversed

The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required. (Para 40)

When the under trial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is: whether the same is possible in the present case. There are seventeen accused persons. Statements of witnesses run to several hundred pages and the documents on which reliance is placed by the prosecution, are voluminous. The trial may take considerable time and it appears that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that the accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter the court from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. There is no good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. (Paras 42 and 43)"

4. Learned counsel for the Vigilance opposed the prayer for bail while referring the impugned order that official table of accused where from amount of Rs.2,78,140/- were recovered and Rs. 19,52,430/- was also recovered from his house. It was further submitted that final form in this case has been submitted.

5. Regard being had to the facts and circumstances of the case, I am inclined to release the petitioner on bail. Accordingly, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Judicial Commissioner-II-Cum-Special Judge, Vigilance, Ranchi in connection with

Vigilance Case No. 28 of 2016, arising out of Ranchi Vigilance P.S Case No. 26 of 2016.