

(2018) 01 JH CK 0006
In the Jharkhand High Court
Case No : 61 of 2017

Brij Mohan Verma

APPELLANT

Vs

The State of Jharkhand through Vigilance

RESPONDENT

Date of Decision : 10-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438\(2\)](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 420](#),
[Section 468](#) Sect

Citation : (2018) 01 JH CK 0006

Hon'ble Judges : Anant Bijay Singh

Bench : Single Bench

Advocate : B.M. Tripathi, Nilesh Kumar

Judgement

1. The petitioner is apprehending his arrest in connection with Spl. Case No.02(A)/2011, arising out of Vigilance P.S. Case No.02/2011, registered under Sections 409, 420, 547, 468, 471, 477(A), 120(B) of the IPC and Section 13(2) read with Sections 13(1)(c)(d) of the Prevention of Corruption Act lodged on the basis of one written report given by S.K.Sinha, Secretary, Jharkhand State Electricity Board, Ranchi.

2. It appears that on 29.08.2017, when the case was called out, learned counsel for the petitioner while referring to Annexure-13 of the anticipatory bail application submitted that Final Form has been submitted by ACB before Special Judge, ACB, Ranchi vide Final Form No.28/2016 dated 12.04.2016, but till date, learned Special Judge has not taken cognizance against this petitioner, so a report was called for from the court of Sri Ashutosh Dubey, J.C.-II-cum-Special Judge, ACB, Ranchi or its successor court about the status as to whether he has taken cognizance against the petitioner or not if not, what prevented him from taking cognizance and matter was directed to be listed for 14.09.2017.

3. On 14.09.2017, the required report being Lt. No.487, dated 11.09.2017

submitted by Santosh Kumar-II, Special Judge, ACB, Ranchi was received, which reveals that F.I.R of the above subject Vigilance P.S. Case No.02 of 2011, registered on 20.01.2011 for the offence registered under Sections 409, 420, 547, 468, 471, 477(A), 120(B) of the IPC and Section 13(2) read with Sections 13(1)(c) (d) of the Prevention of Corruption Act against 08 named accused persons and others. The Charge-sheet No.28/16 dated 12.04.2016 was submitted on 12.04.2016 and since then the record was being adjourned for consideration of such charge-sheet. The case record was adjourned from 13.04.2016 to 06.09.2017 and he has taken charge of that court on 07.08.2017 and the record was put up before him first time on 04.09.2017, when the order of the Hon"ble Court was received and the office was directed to put up all the materials, record and documents at once. The same was produced on 06.09.2017 and the cognizance has been taken on 06.09.2017.

4. Under the circumstances, office was directed to call for the entire record of Spl. Case No.02(A) of 2011 arising out of Vigilance Case No.02 of 2011. Thereafter on 02.11.2017 records of Cr.M.P.No.858 of 2017 was also called for, which is pending before this Court for quashing of the entire criminal proceeding against the petitioner.

5. Thereafter on 27.11.2017, after receipt of the LCR, learned counsel for the ACB was directed to go through the LCR and address this Court as to why Special Judge has taken so much time for taking cognizance.

6. Heard the counsel for the parties.

7. Learned counsel for the petitioner has submitted that the petitioner is not named in the F.I.R and he has been made an accused as he was the chairman of Jharkhand State Electricity Board for the period from 31.12.2007 to 17.09.2008. It is further submitted that one of the co-accused, namely, Wilson Niroj Kumar Horo has been granted bail in ABA No.1310/2013 vide order dated 05.09.2013 by a Bench of this Hon?ble Court. It is further submitted that the Final Form has been submitted on 12.04.2016 without examining the role and involvement of this petitioner in the alleged transaction and the cognizance has been taken on 06.09.2017 after so much delay and lastly it is submitted that the petitioner is aged about 72 years and is also physically handicapped and being subject to harassment for no fault.

8. Learned counsel for the ACB has vehemently opposed the prayer for anticipatory bail.

9. It appears that Final Form has been submitted on 12.04.2016 and the matter thereafter was being adjourned for consideration of Final Form for taken cognizance and the matter was adjourned from 13.04.2016 to 06.09.2017 and on 07.08.2017, when the present Spl. Judge, Sri Santosh Kumar taken charge of that court and the record was put up before him first time on 04.09.2017, when the order of the Hon?ble Court was received and cognizance has been taken on 06.09.2017.

10. Under the circumstances, I am inclined to admit the petitioner on anticipatory bail subject to the cost of Rs.1,00,000/-(one lakh) to be deposited before the Secretary, Jharkhand High Court Advocates Association latest by 05.02.2018 and thereafter, Secretary shall issue a receipt of the same in favour of petitioner and the petitioner shall produce the same before the trial court at the time of surrender. The aforesaid deposited cost shall be used for the welfare of the advocates.

11. The above named petitioner is directed to surrender in the court below latest by 12.02.2018 and in the event of his arrest or surrender, the court below shall release him on bail on his furnishing bail bond of Rs.25,000/- (twenty five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance, Ranchi, in connection with Spl. Case No.02(A)/2011, arising out of Vigilance P.S. Case No.02/2011, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

12. Subject to further conditions are that one of the bailors must be a local solvent person resident of Ranchi district and the petitioner shall deposit his passport, if any, before the trial court and if the petitioner fail to do so, as directed by this Court, the ACB shall file an application for cancellation of his bail before this Court.

13. Let the lower court record be sent back to the court concerned through special messenger forthwith.

14. Further, the Registrar Vigilance of this Court is directed to hold an enquiry as to why the then Spl. Judge, ACB, Ranchi has taken so much time for taking cognizance and failed to take cognizance and shall fix the responsibility not only upon the then Spl. Judge, but also all the concerned erring staffs/officers and to submit its report to this Court within 16 weeks.

15. List this case after 16 weeks, under the heading "For Orders".

16. Let a copy of this order be sent to the Spl. Judge, ACB, and the Registrar Vigilance of this Court.