

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74217 of 2022**

Arising Out of PS. Case No.-33 Year-2022 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

ADITYA KUMAR S/O SRI SUNDERPAL Resident of 626-B, Subhash Nagar, P.S.- Civil Line, District Meerut (U.P.), Presently resident of B-505 Vasikunj Apartment, Saguna More, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
 2. The Economic Offences Unit through S.P., Patna, Bihar.
- Opposite Parties.

Appearance :

For the Petitioner : Mr. S.D. Sanjay, Senior Advocate
Ms. Priya Gupta, Advocate
For the E.O.U. : Mr. Rana Vikram Singh, Retained Counsel EOU

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER**

4 21-03-2023 Heard Mr. S.D. Sanjay, learned senior counsel assisted by Ms. Priya Gupta, learned Advocate for the petitioner and Mr. Rana Vikram Singh, learned counsel for the Economic Offences Unit.

2. The petitioner apprehends his arrest in Economic Offences P.S. (Patna) Case No. 33 of 2022 registered for the offences punishable under Sections 353, 387, 419, 420, 467, 468 and 120B of the Indian Penal Code and Section 66 (C) and 66 (D) of the I.T. Act.

3. The prosecution case, in short, is that on the basis of a written information dated 15.10.2022 by the informant, Dy. S.P., Shri Bhaskar Ranjan, Economic Offences Unit (EOU), the present case has been registered. It has been alleged that on the



basis of confidential information that while using the mobile number 9709303397 the user had called the then Director General of Police (DGP), Bihar, Patna and other senior officers on mobile phone and Whatsapp call to pressurize for doing an administrative act/taking administrative decision in favour of one senior officer. On verification of such fact, a team was constituted for which written intimation was also received from the DGP in which he informed that the user of mobile number 9709303397 was claiming himself to be the then Hon'ble Chief Justice of Patna High Court, on his D.P. the photograph of the then Hon'ble Chief Justice was fixed and he used to talk on his official mobile number 9431602303 on Whatsapp and was asking to do some work on which he doubted from the tone and, accordingly, directed to take necessary action.

4. It is further alleged that for the purpose of verification it was found that the said mobile SIM was issued in the name of Rahul Kumar as per its CAF, when he was contacted then his address was found correct and he stated that he was working part-time in the shop of Gaurav Raj and in order to take a SIM on his own name, the said Gaurav Raj had taken his thumb impression for getting it linked on his Aadhar Card but he did not get SIM and he was informed that the SIM



could not be activated.

5. It is further alleged that the enquiry was made from Gaurav Raj who stated that he is having a business of sale of mobile phone and SIM in the name of Murgan Communication which is situated in Patna City. He further stated that his friend Subham Kumar paid the money for two SIMs. Accordingly, he took two SIMs in the name of Rahul Kumar and gave to his friend Subham Kumar one being mobile number 9709303397.

6. It is alleged that the enquiry was made from Subham Kumar, who stated that he works in the shop of one Rahul Ranjan Jaiswal and he gave the SIM of mobile number 9709303397 to Rahul Ranjan Jaiswal for Rs.2000/-.

7. It is further alleged that when Rahul Ranjan Jaiswal was contacted, he stated that he is the owner of a mobile shop, namely, Mr. Gazette Mobile shop and he has given the SIM Number 9709303397 to his regular customer, namely, Abhishek Agrawal, resident of Ajay Nilay Apartment, Nageshwar Colony, P.S. Budha Colony, Patna, who is a businessman dealing in Tiles in Exhibition Road, Patna. He also stated that Abhishek Agrawal had asked him in the first week of September, 2022 to give him two mobile phones with



SIM in the name of some other person as he had to give it to a senior police officer. Hence, considering him to be a regular customer, he was given two SIMs-one being 9709303397.

8. It is also alleged that the team thereafter went to the residence of Abhishek Agrawal. Initially, he was not ready to say anything, but when he was confronted with Rahul Ranjan Jaiswal, then he admitted that he had taken this SIM on being asked by his friend, Aditya Kumar, which he has put in mobile set of Real Me Company. He was having another SIM number 8051690749 which was in Itel Mobile Set.

9. It is further alleged that in course of interrogation, Abhishek Agrawal stated that Aditya Kumar, an IPS Officer, is close to him, who was earlier posted as Superintendent of Police in Gaya and presently he is posted in Police Head Quarters, Patna. He also stated that he knew him since last four years and was his close friend. He also stated that recently a case against him relating to Excise Act has been closed from Head Quarter level and he had played an important role. Abhishek Agrawal also stated that during the posting of Aditya Kumar as Superintendent of Police in Gaya, a dispute took place with Sri Amit Lodha, the I.G., Police and Sri Amit Lodha wanted to implicate him.



10. It is alleged that Abhishek Agrawal also stated that Aditya Kumar discussed this matter with him and expected his suggestion and cooperation. Thereafter, it was decided that a Pairwee is made to the DGP in the name of some Senior Judge of Patna High Court to close the proceeding so that he can be posted in any district. Thus, for the benefit of Aditya Kumar, he prepared a plan and made normal calls and Whatsapp calls to the DGP in the name of the then Hon'ble the Chief Justice of Patna High Court from Mobile Number 9709303397 and took him in confidence so that he could think that the caller is Hon'ble the Chief Justice, Patna High Court. During this period, Aditya Kumar provided to Abhishek Agrawal some confidential documents onWhatsapp. The DGP also considered him to be Hon'ble the Chief Justice and addressed him in the name of Sir.

11. It is further alleged from the data extracted from mobile number contained SIM No.9709303397 and from Itel Mobile SIM No.8051690779, the fact stated by Abhishek Agrawal stands corroborated, hence cognizable offence is made out against all named above persons.

12. Learned Senior Counsel appearing on behalf of the petitioner submits that petitioner is quite innocent and



has committed no offence as alleged in the FIR. He has been falsely implicated in this case under a deep rooted conspiracy hatched by higher police officers of the department. He further submits that the petitioner worked honestly and efficiently during his tenure. He arrested dreaded Naxals and encountered several veteran criminals and also arrested various sand *mafias*. The learned Senior Counsel further submits that while the petitioner was posted as S.P., Begusarai in August, 2017 and he remained posted there till September, 2018, the district was known for large scale crime and by his effective policing, the petitioner got arrested almost all top criminals of the district due to which peace prevailed in the district.

13. He further contends that thereafter the petitioner was posted as S.P., Bhojpur in October, 2018 and he worked there till May, 2019 and here also during his tenure the veteran criminals were either arrested or neutralized by encounter, including a notorious criminal, namely, Hero Singh. Thereafter, the petitioner was posted as DIG, Rail from June, 2019 to December, 2020.

14. He further contends that in January, 2021, the petitioner was posted as a Senior Superintendent of Police in Gaya. The petitioner during his tenure was engaged in very



effective policing and organizing the *Pitra Paksha Mela* without any criminal activity or any untoward incident. During his tenure, the Bihar Panchayat Election, 2021 was successfully conducted. It is important to mention here that during the tenure of the petitioner in Gaya, the most successful work was Naxal encounter in March, 2021 in which four Zonal Commanders of top naxal formations were neutralized.

15. Learned Senior Counsel for the petitioner further submits that the SHO (Officer in Charge) of Rampur Police Station, namely, Sri Surendra Singh was not at all a disciplined officer and never gave heed to the instructions of the petitioner. He was recklessly acting in the police station under his jurisdiction. The petitioner made a complaint of the said SHO to his IG, Sri Amit Lodha and requested him to remove the said Surendra Singh from the duty of the Officer-in-Charge. But, no action was taken by Sri Amit Lodha. Then, the petitioner learnt that the said Sri Surendra Singh had a very intimate relationship with Sri Amit Lodha and, therefore, no action was being taken against him. There were few more SHOs very intimate to Sri Amit Lodha. They were always in the lookout to undermine the authority of the petitioner in the district. The petitioner vide his Letter No.9151 dated



30.12.2021 addressed to the DGP, Bihar sought his guidance mentioning all the facts in detail, but did not get either any positive reply or any guidance on the same. The petitioner experienced that some SHOs of different police stations (Officer-in-Charge) were regularly meeting with Sri Amit Lodha and when the petitioner made an enquiry, then the petitioner learnt that Sri Amit Lodha is engaged in shooting of a film/web series. On further enquiry, the petitioner learnt that a Web series at the instance of Sri Amit Lodha is under production and for that purpose Sri Amit Lodha is visiting Jharkhand frequently without officially informing his subordinates or higher authorities. He was also travelling out of station from time to time. Thus, learned Senior Counsel submits that the petitioner has been made accused in this case at the instance of senior police officers of his department, hence he may be given the privilege of anticipatory bail.

16. *Per contra*, Mr. Rana Vikram Singh, learned counsel appearing for the EOU vehemently opposing the bail petition submitted that the petitioner, in association with co-accused, Abhishek Agrawal @ Abhishek Bholpalaka, conceived a plan to dupe the then DGP, Bihar in the name of the then Hon'ble the Chief Justice of this Court and got it



executed by procuring different SIM Cards on other persons' name and used it to create a fake profile and profile picture (DP) in the name of Hon'ble the Chief Justice of this Court and used to make calls from mobile number 9709303397 posing himself as Hon'ble the Chief Justice to the DGP, Bihar on mobile number 9431602303 asking and directing him repeatedly to get the case of accused, Aditya Kumar closed and also get approval from the Chief Minister, Bihar to drop the proceeding initiated against the accused-petitioner. It is further submitted that the mobile number 9709303397 was recovered from co-accused, Abhishek Agrawal @ Abhishek Bholpalaka and another mobile number 7870000000 was also recovered from co-accused, Abhishek Agrawal @ Abhishek Bholpalaka from which he used to make a call to the petitioner on his mobile number 7783862271 and has been in regular touch with him informing him about all talks and sending him all the documents which were confidential in nature.

17. It is further contended that in course of investigation extraction reports of both the mobile numbers were obtained which runs into 20 pages and 179 pages and the extracted images runs into 98 pages respectively, which shows indisputably the active participation of the petitioner in the



alleged crime which is evident from the evidence, oral, documentary and electronic, collected in course of investigation.

18. It is further contended that from perusal of paragraph nos. 3, 24, 27, 28, 29 and 30 of the case diary in which the statement of the witnesses are recorded, establishes the accusations against the petitioner, whereas in para 63 the statement of one Rahul Kumar was recorded under Section 164 Cr.P.C. in which he has categorically described as to how mobile number 9709303397 was procured by the accused persons in his name and this number has been used as the number of the then Hon'ble the Chief Justice of this Court by creating a fake profile of Hon'ble the Chief Justice. Statement of the DGP, Bihar was recorded in para 195 of the case diary and both these statements clearly disclose that the name of the then Hon'ble the Chief Justice has been used to put undue pressure on DGP, Bihar to submit final form in Fatehpur (Gaya) P.S. Case No.312/22 and to get the departmental proceeding initiated against the petitioner closed/dropped.

19. It is further contended that the statement of one Abhijeet Kumar, franchise of BARISTA, Sahdeo Path S.K. Puri was recorded in para no.78 who has categorically stated



that the petitioner along with accused Abhishek Agrawal @ Abhishek Bholpalaka used to sit in the coffee shop for longer hours on regular basis which is also supported from call tower location of the mobile number of both the accused persons. Further statement of accused Abhishek Agrawal @ Abhishek Bholpalaka, recorded in para 06 and para 68 of the case diary along with the seizure list mentioned in para 04 of the case diary, vividly describes the role played by the petitioner in the alleged crime and it shows clinchingly the active role played by the petitioner.

20. It is also submitted that besides the above, there are cogent, credible and clinching evidence in the form of electronic evidence, which not only discloses, but also establishes the connivance, collusion and active participation of the petitioner in the alleged crime as a mastermind, who conceived, designed and executed the plan through accused Abhishek Agrawal @ Abhishek Bholpalaka. Para 116, 139, 203, 204, 205, 206 of the case diary contain F.S.L. reports of the mobile seized, CDR, and extraction reports showing chats, sharing of documents and other related matters between the petitioner, co-accused Abhishek Agrawal @ Abhishek Bholpalaka and DGP, Bihar, which leaves no doubt about the



active role played by the petitioner. Accordingly, it is prayed that the petitioner does not deserve privilege of anticipatory bail.

21. When this case was taken up on 03.02.2023, after some arguments, learned counsel for the EOU was verbally directed to produce the case diary on the next appointed date and, accordingly, on 07.02.2023, the same is produced in a sealed cover which is opened in Court.

22. From perusal of the case diary, it appears that at the instance of the petitioner, the co-accused, Abhishek Agrawal @ Abhishek Bholpalaka, in a deep rooted conspiracy, posing as the then Hon'ble the Chief Justice of Patna High Court, has made repeated calls to the then DGP, Bihar and directed him repeatedly to get the case of petitioner closed and get approval from the Chief Minister of Bihar to drop the proceeding initiated against the accused-petitioner, which appears from para 04 of the case diary (page no.13). The said Abhishek Agrawal @ Abhishek Bholpalaka in his confessional statement has admitted that he is acquainted with Aditya Kumar, IPS (petitioner herein) since last four years and by making a plan with him, he created fake Whatsapp account of the then Hon'ble the Chief Justice and made phone



calls/Whatsapp Chats and Whatsapp calls to the then DGP, Bihar for taking decision in favour of the petitioner, which is evident from para 06 at page number 15, 22 and 23 of the case diary.

23. In paragraph 78 of the case diary, Shri Abhijeet Kumar in his statement has confessed that Aditya Kumar, I.P.S. and Abhishek Agrawal @ Abhishek Bholpalaka usually come and sit together in BARISTA Cafe. In paragraph 68 of the case diary, co-accused Abhishek Agrawal @ Abhishek Bholpalaka in answer to the question no.6 has also admitted that while he and the petitioner were sitting at the BARISTA Cafe, the petitioner told him to call the DGP posing himself to be Hon'ble the Chief Justice and for this managed a mobile set and SIM. In paragraph 116, there is electronic evidence that the seized mobile no. 7870000000 and 9931313131 has in and out calls in the mobile no. of the petitioner bearing mobile no. 7783862271. In paragraph 193 of the case diary at page no.128 and 191 to 206 is the FSL Report of whatsapp chats extraction report which runs into 20 pages in which 56 images have been made available. From page no.1 to 18 the mobile no. of the then DGP and page no.19 to 56 the mobile no. of Abhishek Agrawal @ Abhishek Bholpalaka.



These are only some examples, although the bulky case diary contains ample evidence against the petitioner which fully corroborates the allegations levelled against him.

24. From perusal of the case diary, involvement of two Judicial Officers in the murky transactions is also transpired as they unsuccessfully tried to make pairvi for listing the case of the petitioner in a particular Bench. Para-206 of the case diary, which is ninth folder of the F.S.L. report, relates to whatsapp chatts between Krishna Gopalji (Mr. Krishna Gopal, A.D.J.-II, Benipur, Darbhanga) and Abhishek Bholpalaka with regard to talk to Namitaji (Ms. Namita Singh, O.S.D., Patna High Court). Para-207 of the case diary relates to whatsapp chatts extraction report (in two pages) and chatt relating image in three pages, made on 11th June, 2nd July and 19th of July, 2022 relates to listing of the case of the petitioner, being Cr. Misc. No.41872 of 2022, in a particular Bench. Mr. Krishna Gopal was interrogated in question-answer format, in which, in answer to question no.5, he has clearly admitted that during the birthday party of son of the Abhishek Agrawal at Maurya Hotel, he was made acquainted with the petitioner, while Ms. Namita Singh has stated that she is not acquainted with the petitioner but the electronic evidence and extracted whatsapp



chatts of Ms. Namita Singh with Abhishek Bholpalaka, the co-accused, clearly shows that establishes that she gave assurance to get the case listed before the particular Bench. Whatsapp chatts between her and the co-accused is explicit example of her active role in the nefarious game. Besides the above, there are much more credible and clinching evidence in the form of electronic evidence, which shows their participation in the alleged crime. When this has been happening right under the very nose of the High Court, I cannot afford to turn a Nelson's eye to these activities and conveniently ignore it. It is high time for this Court to take serious view of this matter on administrative side about the conduct of these two officers, which conduct is unbecoming of Judicial Officers. Law treats all people in the same manner and does not change to person to person.

25. It is not in dispute that the petitioner has served as Superintendent of Police at Jehanabad and Begusarai and Senior Superintendent of Police, Gaya. During his posting in Gaya, he was accused of intervening to release a seized liquor consignment and a criminal case was later lodged against him. It was in connection with this case that the petitioner was accused of hiring a conman, who tried to influence the probe by calling



up Director General of Police, S.K. Singhal while posing as the then Hon'ble the Chief Justice of this Court.

26. Corruption has always been a potential threat to the growth and prosperity of any Nation and that too by a person in uniform, who is supposed to keep curb over such activities. According to Merriam Webster Dictionary the word "Corruption" means 'A dishonest or illegal behaviour especially by powerful people such as government officials or police officers'. It is pertinent to note here that special emphasis has been laid down on the corruption by powerful people as it is a settled position that generally a person in power is in a better position to exert his influence, abuse his power to commit the offence of corruption, like any Government Official as he is having control over public at large and the mechanization so they are in a likely position to commit the corruption, than a common man, who works for his bread and butter without any authority. The Corruption and Bribery is a matter of serious concern and threat for the economical stability of India.

27. The law of the land abhors any public servant intentionally enrich himself illicitly during the tenure of his service and taking undue advantage of his post and power. Increase in the assets of such a public servant tantamount to



constitutionally impermissible conduct and such conduct is liable to put under the strict scanner.

28. Considering the facts and circumstances of case as well as the fact that there are ample evidence against the petitioner in the form of electronic evidence also, which not only discloses but also establishes the connivance, collusion and active participation of the petitioner as a mastermind, who got the plan executed through co-accused Abhishek Agrawal alias Abhishek Bhopalaka, I am not inclined to enlarge the petitioner on anticipatory bail. The prayer for anticipatory bail of the petitioner is hereby rejected.

29. However, if the petitioner surrenders before the learned Court below within four weeks from today and seek regular bail, the learned Court below would pass order in accordance with law without being prejudiced by this order.

30. After sealing the case diary, the same be returned to the retained counsel for the E.O.U. in Court.

31. Before parting, I cannot restrict myself to pen down that as two Judicial Officers have been found to be involved in this case and there is clinching evidence against them about their involvement, Registry is directed to place a copy of this order before Hon'ble the Chief Justice for taking



appropriate decision on the administrative side.

32. Maintaining that Caesar's wife must be above suspicion, the High Court has statutory authorities entrusted with the administration of justice which has to stand on a higher pedestal with sterling integrity so as to dispel any doubt regarding their conduct.

33. The Judiciary is expected to remain unaffected by pressures exerted by other branches of the government, citizens or interested groups. Independence of the judiciary is one of the basic and inalienable features of the Constitution.

(Anjani Kumar Sharan, J.)

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