

In the court of Special Judge Vigilance (Trap), Bhagalpur

Special Vigilance Case No. 12 / 2021

State vs Kumar Alok Ranjan & Ors.

Vigilance PS Case No. 27/21

Dated: 25.02.2025

Present: **Sudesh Kumar Srivastava**

Special Judge Vigilance (Trap), Bhagalpur

25.02.2025

1. A discharge petition dated 28.01.2025 on behalf of accused Kumar Alok Ranjan has been moved today for discharging the petitioner from the charges levelled against him as no charges are made out against him in this case. The copy of same has been received by learned Spl.P.P. (Vig) for state, who has filed rejoinder dated 04.02.2025.
2. The ld counsel for accused petitioners submits that accused petitioner has not moved any discharge petition earlier and accused petitioner is innocent and has not committed any offence as per the FIR and has been falsely implicated in this case due to local dirty politics and illegal gain. No case is made out against the petitioner and petitioner has no criminal antecedent and hence the petitioner be discharged from the liabilities of present case. It is submitted that basic principles of criminal jurisprudence and fair investigation has been deliberately violated by the prosecution agency. Amongst the uncontroverted facts it has been asserted that in report dated 10.06.2021 submitted to DM there is no evidence regarding demand of bribe by petitioner. Verification has been done by Constable Manikant Singh which illegal and hit by section 17 PC Act and not in accordance with Hon'ble Supreme Court decision in Vakil Prasad vs State of Bihar. Matter has been reported in vigilance on 08.07.2021 then how verifier proceeded in matter on 30.06.2021. At that time petitioner was not in office hence there cannot be any demand of bribe. There is nothing in verification report about the description of voice recorder and even in alleged conversation there is no demand of bribe. CD1 has been recorded on 03:10 pm and CD2 on 12:30 pm but in charge sheet IO has mixed up the same causing serious prejudice to petitioner. No work of complainant was pending with petitioner hence there was no occasion for any demand by petitioner. Complainant has personal motive to implicate petitioner and hence a concocted story has been cooked up against the petitioner. As per government guidelines cess amount can not be deposited in case but only through demand draft regarding which petitioner has served several notices to the company of complainant and in revenge the complainant in connivance with vigilance officers has implicated the petitioner in this false case. Petitioner was engaged in law and order duty during 05.07.2021 to 08.07.2021 hence there was no question of demand of bribe. Petitioner was found corona positive on 23.04.2021 as such there was no question of demand of bribe on 24.04.2021. Petitioner was illegally detained by vigilance regarding which brother of petitioner complained to Human Rights Commission and National Commission for SC who took the cognizance in the matter. Very basic of

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section 7 regarding demand is absent in this case and hence present case is nothing but abuse of process of law. Complainant in this case is company and vigilance has failed to collect master data to verify the existence of company. There is no role of petitioner as evident from conversation between co-accused and complainant. Whole conversation between complainant and Manoj Kumar has been dissected to avoid the role of petitioner in this case. Verification is an investigation and without FIR investigation has been done which is illegal. Further whole charge sheet has also been dissected to show the various illegalities in the chargesheet as well in the manner of working of vigilance. Guidelines of Hon'ble Supreme Court in Lalita Kumari case has not been followed. Affidavits of Ajit Kumar, Shankar Paswan and Manoj Kumar has been referred by petitioner regarding occurrence at the time of trap. There is no acceptance and recovery from petitioner and false recovery has been shown. No work of complainant was pending with the petitioner. Sanction in this case is cyclostyled and without application of mind without following case of CBI vs Ashok Kumar Agrawal. Hence prayed to discharge the petitioners from the liabilities of present case.

3. The learned Spl P.P. Vigilance for State vehemently opposed the petition and argued that discharge petition filed by the accused petitioner is not maintainable in the eye of law as the same has been filed only to linger on the case. After proper investigation the IO has submitted charge sheet against the petitioner which itself is ground for rejection of discharge petition. After finding sufficient material against the petitioner cognizance has been taken. Police paper has been received by the accused petitioner and through this discharge petition the petitioner is lingering on the case only for hearing of said application. There is sufficient material and evidence against the petitioner and hence discharge petition is liable to be rejected.

4. I have heard rival sides and thoroughly perused the record.

5. The petitioner was apprehended on 09.07.2021 in his office red handed accepting the bribe of Rs 55,000/- of which a post trap memo was prepared signed by two independent witnesses. The hands of petitioner when washed in sodium carbonate solution then the colour of same turned pink. The defense that the accused was quarantine at that time is just a defense and not a ground of discharge which can be considered after trial. Prosecution case is that accused asked the informant to talk to co-accused of which transcripts are on record. Again the genuinity of same cannot be challenged at this stage. It is prosecution case that co-accused on behest of petitioner has demanded bribe money. In his discharge petition the accused petitioner has dissected almost whole case diary to prove that what type of illegalities have been committed but in said attempt has cemented the occurrence which only has to be seen at this stage. Most of the grounds mentioned in the voluminous discharge

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petition filed by petitioner are more of the defense grounds to be put in the arguments. In attempt to prove the illegalities committed by vigilance trap team the accused petitioner himself has shown the material available on record against the accused petitioner to proceed with charge framing against him. At this stage the court only has to look into that whether there is sufficient material on record to proceed with charge framing against the accused or not and this court through the discharge petition itself arrives on conclusion that there is sufficient material on record to proceed with charge framing against the accused petitioner.

6. Now let us consider the observation of the Hon'ble Supreme Court in regard to the framing of the charges. In *Antulay's case*, (**AIR 1986 SC 2045**), Bhagwati C.J., opined, after noting the difference in the language of the three paras of section, that despite the difference there is no scope for doubt that at the stage at which the Court is required to consider the question of framing of charge, the test of "prima facie" case has to be applied. In our view, better and clearer statement of law would be that if there is ground for presuming that the accused has committed the offence, a Court can justifiably say that a prima facie case against him exists, and so, frame charge against him for committing that offence".

7. In **AIR 1996 supreme court 1744 "State of Maharashtra v. Som Nath Thapa** in para 32 Hon'ble Supreme Court has observed "The aforesaid shows that if on the basis of materials on record, a Court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of charge, probative value of the materials on record cannot be gone into the materials brought on record by the prosecution has to be accepted as true at that stage."

8. Thus taking the above case laws into consideration and applying the same to the facts discussed above it appears that the material available on record is

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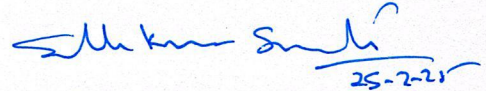
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sufficient to frame charges against the accused person. Most of the arguments advanced by the petitioners can very well be considered at the time of trial. In the result the discharge petition dated 28.01.2025 on behalf of accused Kumar Alok Ranjan is hereby **Rejected**. The accused persons are directed to be present for the framing of charges. **Put up the record for framing of charges on 17.03.2025.**



(Sudesh Kumar Srivastava)
Special Judge Vigilance (Trap)
Bhagalpur
25.02.2025