IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32641 of 2015

Arising Out of PS.Case No. -11 Year- 2012 Thana -C.B.I CASE District- PATNA

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Sanjiv Kumar Das son of Sunil Chandra Das resident of Mohalla-77 Azad colony, Police Station- K.Hat, District - Purnea.

.... Petitioner/s

Versus

The State of Bihar through Central Bureau of Investigation

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agarwal, Sr. Advocate
: Mr. Vikram Singh, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, SC, CBI

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

4 16-10-2015 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the Central Bureau of Investigation.

The petitioner is apprehending his arrest in connection with Special Case No.06 of 2012, R.C. Case No. 11(A) of 2012 registered under sections 409, 420, 467, 468, 471 and 472A read with 120B and 13(2) read with 3(i) and (d) of the P.C.Act.

Learned counsel for the petitioner submits that the entire defalcated amount was to the tune of Rs.1.11 crore but after due investigation charge-sheet had been submitted stating the amount to be Rs.17,72,853/-. It is submitted that in pursuance of the earlier case filed by the main accused Vibhash Chandra Das, who was an employee of the State Bank of India and who had deposited the money in the account of his wife, brother, son and daughter, had been extended the privilege of anticipatory bail on the condition that he would deposit the amount which had been alleged to be defalcated as stated in the charge-sheet. Learned counsel for the petitioner submits that subsequent to the order extending provisional bail to the main accused Vibhash Chandra Das, he deposited the amount as stipulated in the order and thereafter the order extending bail has been confirmed.

In view of the aforementioned changed circumstance and also because of the fact that this petitioner has not withdrawn any amount which have been deposited in his saving bank account, the petitioner being brother of the main accused may be extended privilege of anticipatory bail.

Learned counsel appearing on behalf of the CBI submits that the petitioner is the brother and the beneficiary of the alleged defalcation made by the main accused and another beneficiary that is his wife, who had approached this Court earlier, and she had been denied the said privilege for the huge defalcation as alleged in the FIR. Learned counsel has further produced an order dated 12.9.2014 by which the anticipatory bail application of Nandita Das wife of the main accused Vibhash Chandra Das was rejected by this Court in Cr. Misc. No.50530 of 2013. He, thus, contends that the petitioner being similarly placed and one of the beneficiaries may not be entitled to the said privilege.

In pursuance to the aforementioned contention of the learned counsel appearing on behalf of the CBI, learned senior counsel for the petitioner submits that in view of the changed circumstance and also because the petitioner herein is brother, who has not withdrawn any amount from the bank, there is radical difference in their cases. Furthermore, after rejection of the aforementioned case the main accused has also deposited all amounts and it has been averred that no further withdrawal would be made from the accounts as referred to in the FIR.

Considering the aforementioned facts and circumstances of the case and the arguments advanced by the learned counsel for the parties, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, CBI,1 Patna in connection with Special Case No.6 of 2012, RC Case No.11(A) of 2012 subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

It is made clear that the petitioner shall make himself available at all material dates before the CBI court for accepting the police papers and shall not default in making the attendance for more than two consecutive dates without any just and valid cause. It is further made clear that if the present order has been made on false presumption that he has not withdrawn any amount from his accounts then it shall be open to the opposite party to take appropriate legal steps in accordance with law for cancellation/modification of the order.

(Anjana Mishra, J)

Md.S./-

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