IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13027 of 2016

Arising Out of PS.Case No. -5 Year- 2015 Thana -C.B.I CASE District- PATNA

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1. Kumar Narottam Suman, Son of Surendra Prasad Singh, resident of Mohalla- Kuraich, Mahabir Asthan, P.O. + P.S.- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through CBI
2. The General Manager, Canara Bank, Circle Office, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Ashutosh Ranjan Pandey

For the CBI : Mr. Sanjay Kumar

For the Bank : Mr. Ranjan Ghoshvare

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

11 06-10-2016 Heard learned Senior Counsel for the petitioner and learned counsel appearing on behalf of the Canara Bank as well as learned counsel for the Central Bureau of Investigation.

The petitioner being the Agriculture Extension Officer at Sasaram Branch of Canara Bank is apprehending his arrest with connection with a case registered for the offence punishable under Sections 120-B read with Section 406/420/468/471 of the Indian Penal Code.

Diary in the present case was called for which has been duly produced.

Learned Senior Counsel appearing on behalf of the petitioner submits that being the Agriculture Extension Officer at Sasaram, the petitioner has been allegedly held liable for the release of certain loans for which he is neither the recommending authority nor is he the sanctioning authority of the loans. It is submitted that, in fact, an accused by the name of Kaushik Gupta who was introduced in the Sasaram Branch of the Bank by the then DGM of the Bank, namely, Shri Ram Krishna and it was he and office of the Agricultural Finance and Propriety Section of the Circle Office, Patna who had themselves prepared a model office note and had laid down the guidelines before the Branch to sanction as desired by the accused Kaushik Gupta, in lieu of receipts granted by the Warehousing Corporation. Learned Senior Counsel for the petitioner, further submitted that, in fact, the local officials were not having any role in the sanction of loan and so far as the petitioner is concerned, he was being controlled by the Branch Manager and such loans were being directly monitored by the Circle Office situated at Patna through the then DGM Shri Ram Krishna and Agricultural Finance Section who had been in consistent contact with the farmers and had been visiting the Sasaram Branch regularly. Learned Senior counsel submits whatever loans were released by him, the same were on receipts made available to him from the Central Warehousing Corporation which used to issue receipts after the rice/agriculture produce was received in the godown from the farmers and the said receipts were being brought in by one Shri Kaushik Gupta who had hired a godown at Sasaram as well as the said Warehouse. Learned Senior Counsel for the petitioner further submits that the then Senior Branch Manager, namely, Shri Pushpendra Kuman Suman who was a new comer and had no experience of handling the Branch, on noticing that the farmers had not been given their due payments, released the money in favour of Mr. Kaushik Gupta for the purpose of making payments to farmers in cash. It was only because the genuine farmers were not paid their money, that several complaints were filed including one complaint by a social worker, namely, Birendra Kumar Mishra before the Finance Minister, Government of India, in which specific allegations were made against the C.A. Sunil Chamaria, Kaushik Gupta, trader and the DGM of the Canara Bank. In pursuance of such a complaint, the Canara Bank, in order to save its own skin and the role of DGM and other higher authorities including the Auditor, then submitted a report alleging irregularities in the method of disbursement of loan. However, the report indicated no irregularities, which were communicated to the complainant vide letter dated 21.07.2015(Annexure-3). However, the Bank in order to ensure its own interest conducted an indepth enquiry, subsequently in which the petitioner's name has also figured as being responsible for the disbursement of such loans.

It is alleged, as against the present petitioner, that he had violated the office model 2, and in releasing the loans advanced had not followed the correct procedure as has been prescribed in the said module. The allegation thus, as against the petitioner is that he had extended loans to fifteen farmers to the tune of rupees fifteen lacs per borrower on the production of negotiable warehouse receipt by the trader and in fact, he had gone beyond the outer parameters which was prescribed in the said module. It is alleged against the petitioner that the petitioner had also not ensured as to whether the concerned individual farmers were in possession of landholding and were within the approximate production level. As such, the procedure which was to be usually followed by the Bank before releasing payments were not adhered to by the petitioner and as such he was responsible for causing huge loss to the Bank. Accordingly, he is facing prosecution.

Learned Senior Counsel for the petitioner further submits that in pursuance of such allegations the petitioner was proceeded against and has been now placed under suspension. He further submits that so far as the release of loan amount is concerned, much of the money which were part of the transactions have now been recovered by the Bank and the petitioner may not proceed against since recovery has already been made. He further submits that that if at all, there was any liability it was on the trader who had secured the paddy/agriculture produce and not made payment to them and not this petitioner. In the wake of such circumstances, learned Senior Counsel for the petitioner submits that the investigation having been now virtually completed and also that the entire documents have now been taken into possession by the Central Bureau of Investigation and the Bank is also proceeding against the petitioner departmentally. Thus, it was not necessary to place the petitioner in custody for his custodial interrogation. He further submits that as and when required the petitioner shall make himself available before the Bank, before the investigating agency and after submission of the chargesheet by the concerned Court for proper interrogation and co-operate with the case to the best of his ability. As such, the petitioner may be extended the privilege of anticipatory bail.

Learned counsel appearing on behalf of the Bank has also filed a counter affidavit in the present case. He has categorically averred that the petitioner being a responsible officer of the Bank had by-passed the practices and norms in recommending the payments/loans to the farmers though, they did not fit into the parameters as has been laid down by the Module No. II fixed for compliance by such Agriculture Extension Officer. It was on account of the recommendations made by the present petitioner that the Bank Manager sanctioned the loans in favour of the aforementioned farmers though such sanctions never reached the farmer for which complaints were filed subsequently.

In view of such facts and circumstances, the petitioner does not deserve the privilege of anticipatory bail and must be put behind bars.

Learned counsel appearing on behalf of the Central Bureau of Investigation has also strenuously argued that the petitioner has been squarely responsible for the loss caused to the Bank and was in league with the trader and other high-ups. It was on his recommendation that the loans were released.

Learned counsel for the Central Bureau of Investigation further submits that since enough material has surfaced in the investigation, the petitioner does not deserve the benefit of anticipatory bail.

Having heard learned counsel the parties and after considering all facts and circumstances and also taking into consideration the internal report of the Bank, it appears that serious irregularities have occurred and investigation has revealed the complicity of many persons including the present petitioner.

However, learned Senior Counsel for the petitioner has given an undertaking that the petitioner shall, at all, material times appear before the investigating authorities, the proceeding which is pending in the Bank and also in the Court below on submission of chargesheet.

In view of the fact that the documents which were required for being used as part of the investigation are already in the custody of the Central Bureau of Investigation and the Bank is also taking necessary steps with regard to the petitioner in a departmental proceeding which also must reach its logical conclusion, let the petitioner abovenamed, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judicial Magistrate, CBI, Patna in connection with R.C. 05/S/2015, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

It is further made clear that the petitioner shall give as one of his bailors a close relative which may be his father/mother /brother/sister/wife who shall keep the Court apprised of the petitioner's movement including his respective postings, if on release from under suspension.

It is also made clear that the petitioner shall appear in the Court below on submission of chargesheet and collect the Police papers.

He shall also be present on each and every date and shall not be absent from the Court for more than two consecutive dates without seeking the liberty of the Court below.

(Anjana Mishra, J)

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