

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18893 of 2016

Arising Out of PS.Case No. -13A Year- 2014 Thana -C.B.I CASE District- PATNA

Vijay Kumar, Son of Maheshwar Prasad, Resident of village- Berna, Police Station- Gogari, District- Khagaria.

.... Petitioner

Versus

The State of Bihar through C.B.I.

.... Opposite Party/s

with

Criminal Miscellaneous No.11491 of 2016

Arising Out of PS.Case No. -13A Year- 2014 Thana -C.B.I CASE District- PATNA

Vidyanand Vidyarthi, Son of Late Shiv Shankar Sah, resident of village + P.O. + P.S. Mansi, District - Khagaria

.... Petitioner/s

Versus

The State of Bihar through C.B.I.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.18893 of 2016)

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the CBI : Mr. Sanjay Kumar, SC, CBI

For the Opposite Party/s : Mr. M.K.Nirala, A.P.P.

(In Cr.Misc. No.11491 of 2016)

For the Petitioner/s : Mr. Ravi Bhardwaj, Advocate

For the Opposite Party/s : Mr. Bipin Kumar Sinha(Sc/Cbi)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

6 15-07-2016 Both the cases arise out of same Special Case No. 06 of 2014, R.C. No. 13A/2014(Arising out of CBI/ACB P.S. Case No.RC0232014A 0013 of 2014) registered for the offences punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.



The petitioners were working in different capacities during the relevant period at Barna Sub Post Office in the district of Khagaria. They are said to have misappropriated a sum of Rs. 87,04,000/- under National Old Age Pension Scheme by preparing forged list of National Old Age Pension beneficiaries by manipulating dates of payment and by opening fake accounts in the name of persons without any required orders by the competent authorities, including names of non-existed persons despite the orders of stoppage of payment etc.

So far as petitioner of Criminal Miscellaneous No. 11491 of 2016 (Vidyanand Vidyarthi v. The State of Bihar) is concerned, he was admittedly posted in the Sub Post Office for a short period i.e. from 21.01.2013 to 24.01.2013, 06.03.2013 (04 days), 06.03.2013 to 15.04.2013 (04 days) and 11.06.2013 to 15.06.2013 (05 days). In the charge sheet submitted by the Central Bureau of Investigation, it has been alleged against him that he was responsible, along with other co-accused persons including the petitioner of Criminal Miscellaneous No. 18893 of 2016 (Vijay Kumar v. The State of Bihar) in misappropriating a sum of Rs. 7,29,200/- during the period when he had functioned as Sub Post Master.

Learned counsel appearing on behalf of the petitioner



in case of Vidyanand Vidyarthi has submitted that other accused persons were working in the Post Office from before and he had been deputed there as stop gap arrangement. Learned counsel for the petitioner contends that because the swindling of money was going on from before in the said Post Office, he too has been implicated in this case. He has also submitted that taking a line of least resistance that the petitioner had deposited a sum of Rs. 4,40,000/-, while denying the allegation that he is responsible for any misappropriation.

Considering the admitted fact that petitioner Vidyanand Vidyarthi was posted in the Sub Post Office on deputation for three short durations and the fact that he has already deposited more than 50 per cent of the amount, said to have been misappropriated by him in conspiracy with two other co-accused persons, his application for anticipatory bail i.e. Criminal Miscellaneous No. 11491 of 2016 is allowed.

Let the petitioner, above-named, in the event of his arrest or surrender before the court below within six weeks, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge CBI (II), Patna in connection with Special Case No. 06 of 2014 arising out of R.C. No. 13 of

2014, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

Coming to the case of Vijay Kumar, the petitioner of Criminal Miscellaneous No. 18893 of 2016, it has been argued by learned counsel for the petitioner that he had earlier approached this Court by filing Criminal Miscellaneous No. 40305 of 2015 by an order dated 07.10.2015 passed in the said case, Central Bureau of Investigation was directed not to take any coercive step against him till submission of charge sheet. He has submitted that the petitioner co-operated with the Central Bureau of Investigation. In course of investigation he never misused the privilege granted by this Court by order dated 07.10.2015 passed in Criminal Miscellaneous No. 40305 of 2015. He has, accordingly, submitted that after charge sheet having been submitted, the petitioner should be granted the privilege of anticipatory bail as there is no chance of his absconding from investigation or trial.

Copy of the charge sheet has been brought on record

by way of Annexure to the application. From the materials on record, I find that the petitioner is said to have played pivotal role in misappropriation of huge amount of public money which was to be utilized under National Old Age Pension Scheme by preparing forged documents and by opening fake account in the names of non-existent persons and withdrew the amount for his personal gain.

I do not find it to be a fit case for grant of anticipatory bail in the background of serious offence, the allegations against him.

Accordingly, this application i.e. Criminal Miscellaneous No. 18893 of 2016 for anticipatory bail is, hereby, rejected.

The petitioner, namely Vijay Kumar is directed to surrender before the court below within four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered on its own merit without being prejudiced by rejection of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J)

Vats/-

U		T	
---	--	---	--