IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58614 of 2017

Arising Out of PS.Case No. -6 Year- 2015 Thana -C.B.I CASE District- PATNA
[Special Case No.02/2015 (R.C. No.06(A)/2015]

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Shrawan Kumar Choudhary @ Sharavan Choudhary, S/o Niranjan Kumar Chaudhary @ Niranjan Choudhary, R/o Flat No. 202, Khawab Apartment, New Patliputra Colony, P.S.- Patliputra, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through C. B. I., Patna,
2. Sri Braj Gopal Sandhibigraha, Dy. G.M. , Oriental Bank of Commerce, Regional Office, Patna, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Rana Vikram Singh, Advocate
For O.P. No.1 : Mr.Sanjay Kumar, S.C. (CBI)
For O.P. No.2 : Mr. Nishi Nath Ojha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 15-12-2017 Heard learned counsel for the petitioner and the learned counsel for the Oriental Bank of Commerce and the learned counsel appearing for the CBI.

The petitioner is in custody since 05.05.2017 in connection with Special Case No.02/2015 (R.C. No.06(A)/2015) registered under Sections 120B, 409, 420, 467, 468, 471 and 477A of the Indian Penal Code and Section 13(2) read with Sections 13(1)(c) & (d) of the Prevention of Corruption Act, 1988.

The present prosecution against the petitioner has originated on the basis of an FIR registered with the

Superintendent of Police, CBI, Patna on 18.05.2015, contained in Letter No.1239, by the Deputy General Manager, Oriental Bank of Commerce, Regional Officer, Patna, by which he has made a complaint against the petitioner, Sharavan Chaudhary, who was the Branch Manager of the Oriental Bank of Commerce, Ara Branch, Ara, alleging various financial illegalities and irregularities, which have been detected during the course of inspection, in which the direct involvement of the then Branch Manager, Shravan Chaudhary (the petitioner) appeared to be obvious. It was also stated in the said complaint that such irregularities have been committed in connivance with some other persons for wrongful gain to him and other associates, which had caused wrongful loss to the complainant-Bank.

Detailing the various transactions, which have been undertaken by the then Branch Manager (the present petitioner) in opening fraudulent Bank accounts by encouraging impersonation/non-existing false entities/persons, wherein a large amounts were transferred amongst themselves into fraudulent Bank accounts, causing huge loss to the complainant-Bank, learned counsel appearing on behalf of the petitioner submits, that such allegations against the present petitioner are wholly based on conjectures and surmises and the name of the wife of the petitioner has been brought into the present case with the oblique reason of ruining the petitioner's Banking career and he has been subjected to much harassment, inasmuch as he has been languishing in jail for the last seven months, without there being any concrete evidence to support the same. He further submits that the investigation which has ensued in this case has taken into consideration all facts and circumstances, but has failed to appreciate that at no point of time he was instrumental in opening of such accounts. Moreover, issues, which are of basic nature, such as introducer, which have to be gone into at the earliest point of time, have not been addressed by the investigation.

Learned counsel for the petitioner further submits that whatever documents were available with the Bank, have now been taken into possession by the CBI in view of huge financial loss caused to the Bank and that there is no scope for the petitioner to tamper with the evidences which he could, by staying outside. He further submits that the CBI has conducted a detailed investigation into the matter and now charge-sheet has been submitted by them. He further submits that the petitioner is willing to comply with any direction/condition, which may be imposed on him on his being released from the custody. He has further pointed out to this Court that in pursuance of the allegations levelled against the petitioner, he was initially suspended from the service of the Bank and thereafter, a departmental proceeding ensued, which has ended in his dismissal. Thus, he has been sufficiently punished departmentally and nothing more remains in that context. He thus submits that any condition imposed will be duly honoured by him in all circumstances and in the event of any such misdemeanor on his part, which will occasion delay in disposal of the trial, the court may take recourse to law and cancel his bail.

Learned counsel appearing on behalf of the Bank has seriously opposed the bail application and submitted that on account of acts committed by the petitioner in the capacity of the Branch Manager of the Bank, Branch at Ara, the petitioner has indulged in several acts of misdemeanor, which has resulted into huge loss to the Bank and these aspects of the matter have been found to be true. He thus submits that in the event of such finding by the investigation, it would not be advisable and in the interest of justice to permit the release of the petitioner, who may abscond or tamper with the evidence.

Learned counsel appearing for the CBI has also seriously opposed the bail application and has submitted that the investigation clearly reveals that the petitioner had indulged in the acts of misfeasance and he had indulged in lending and enhancing the limit of cash credit, which could not have been done by him in the capacity as Branch Manager He further submits that he used his wife and her name to make fraudulent transactions and his wife, namely Nutan Devi @ Nutan Choudhary @ Nutan, has also participated in the said transactions and she together with one Indrajeet Upadhaya and Meera Devi had jointly purchased land for a consideration of Rs.65,00,000/-, which could not have been done by him. The matter has been investigated and investigations reveal her complicity in the transactions and, therefore, the petitioner being the husband of the said Nutan Devi and as the Branch Manager does not deserve consideration by this Court and may not be released on bail.

Having heard learned counsel for the parties and on consideration of entire facts and circumstances, it appears that the investigation is now complete as the charge-sheet has been submitted before the court on 28.06.2016. It is past one year since the submission of the charge-sheet, that the court has been in seisin of the matter. It appears that the trial in this case is yet to commence and charges would be framed thereafter. The investigations have been made *in toto* and what remains is the trial. The petitioner having remained in custody for seven months, thus, seeks bail and is willing to co-operate at the trial as and when required.

Taking into consideration the submissions of the parties and also the present status of the case in the court of the CBI, this Court directs release of the petitioner on bail on his furnishing bail bond of Rs.20,000/-(Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, C.B.I.-I, Patna, in connection with Special Case No.02/2015 (R.C. No.06(A)/2015).

It is further directed that one of the bailors of the petitioner shall be his family member/blood relative, who shall also keep furnishing before the Court the details of the petitioner's whereabouts each month.

The petitioner shall appear before the court below on each and every day, so fixed, save and except under specific permission of the court.

It is also directed that along with the bail bond to be furnished by the petitioner, he shall deposit his passport, if issued and in his possession, and the trial court shall ensure that the same shall be preserved in its custody till disposal of the trial.

The petitioner shall also leave the State only after seeking permission from the CBI Court at Patna.

It is made clear that if the petitioner violates any of the terms as imposed by this Court, it shall be open to the court below and/or the opposite parties to move this Court also, for cancellation of bail.

(Anjana Mishra, J)

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