IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46648 of 2018

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna

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Sri Amrendra Kumar Yadav, aged about 42 years, S/o- Late Sri Ayodhya Gope, resident of Mohalla- Mishra Tola, Badi Khanjarpur, Bhagalpur, Bihar. Permanent resident of Village- Prashastdih, P.S.- Sabaur, District- Bhagalpur.

... ... Petitioner/s

Versus

The State of Bihar Through C. B. I.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Ravindra Kumar, Adv
For the Opposite Party/s : Mr. Bipin Kumar Sinha(SC,CBI)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

9 17-09-2018 Heard learned counsel for the petitioner and learned counsel for the CBI.

Petitioner seeks bail in **Special Case No. 03 of 2018 arising out of RC-Case No. 11 of 2017** registered for the offence punishable under Sections 120B r/w 409, 420, 467, 468 and 471 of the IPC and Section 13(2) r/w 13(1)(c) and 13(1) (d) of Prevention of Corruption Act.

It has been submitted on behalf of petitioner that he is innocent and has been falsely implicated in this case and he has no criminal antecedent. He has performed his duty sincerely with due caution and care and his integrity was never doubtful. Petitioner was instructed by senior officers of the District Administration to deposit two cheques drawn on Oriental Bank of Commerce for Rs. 12,20,15,075/- and another drawn on PNB, Barari, Bhagalpur for Rs. 9,75,63047/-in favour of Manager, Indian Bank, Bhagalpur, which were diverted and misappropriated by the Bank Officials in connivance with Srijan Mahila Vikas Sahyog Samiti Ltd., and petitioner is not responsible for such fraudulent transactions. Chargesheet has been submitted in this case on 17.02.2018 and petitioner is in custody since 19.01.2018.

It has been submitted on behalf of petitioner that after coming to know about illegality in the transaction he put criminal law in motion. District Magistrate Birendra Kumar Yadav, directed orally to open bank account in Indian Bank, Bhagalpur. Petitioner was instructed by senior officers to deposit cheque in Indian Bank and he had given the cheque to Ajay Kumar Pandey and Pass-book given by him showed credit of cheque in Govt. Account as such he had no reason to disbelieve. Endorsement on back of cheque was not done by him. The banks are strictly prohibited from collecting process of account payee cheques in the account of any other person for the payee in view of R.B.I circular. Petitioner had no knowledge about opening of bank account in the name of his wife and the moment he came to know about deposit of Rs. 35 Lacs by Late. Manorama Devi of M/s Srijan Mahila Vikas Sahyog Samiti Ltd. Bhagalpur he refunded the amount. He does not own any flat in Ghaziabad and rent of which is being paid to his wife. No illegality or irregularity was found during audit of office by team of Accountant General.

Counter affidavit has been filed on behalf of CBI in which it has been stated that FIR was instituted on the joint written complaint of O.M. Prakash Srivastava Head Nazir, Zila Nazarat Sakha, Bhagalpur, Amarendra Kumar Yadav (petitioner), Assistant Nazir, Nazarat Sakha, Bhagalpur and Nand Kishore Malviya Head Clerk-cum-Incharge Assistant Establishment Officer, Bhagalpur, dated 07.08.2017 giving rise to Bhagalpur Kotwali P.S. Case NO. 494 of 2017 dated 07.08.2017, which was subsequently transferred to CBI and was re-registered as CBI Case No. RC-2172017A0011CBI, ACU-V, AC-II, New Delhi dated 25.08.2017 in which it was alleged that Branch Manager of Indian Bank, Patel Babu Road, Bhagalpur and M/s Srijan Mahila Vikas Sahyog Samiti Ltd. Bhagalpur had defalcated and misappropriated a huge amount of Government money by transferring/diverting the money deposited in the account number of District Magistrate, Bhagalpur to the account of M/s Srijan Mahila Vikas Sahyog Samiti Ltd. Bhagalpur in connivance and by criminal conspiracy.

During investigation, it was revealed that Amrendra Kumar Yadav (petitioner) Assistant Nazir, Nazarat Sakha, Bhagalpur put a proposal to the then Deputy Collector, Nazarat to open a new bank account in the name of District Magistrate, Bhagalpur, with Indian Bank, Patel Babu Road, Bhagalpur on 26.09.2014 and same was recommended by Deputy Collector, Nazarat and thereafter by Additional Collector, Bhagalpur and was approved by the District Magistrate Surendra Prasad Yadav and he signed the account opening form.

The account opening form was taken to the Bank by another co-accused Ajay Kumar Pandey a clerk in the Indian Bank, and new bank Account No. 6268727981 (D.M. Bhagalpur) was opened and thereafter Amrendra Kumar Yadav (petitioner) submitted a formal note on 27.09.2014 with two cheques drawn on Oriental Bank of Commerce for Rs. 12,20,15,075/- and another drawn on PNB, Barari, Bhagalpur for Rs. 9,75,63047/-in favour of Manager, Indian Bank, Bhagalpur and was routed through Head Nazir Om Kumar Srivastava and Deputy Collector, Nazarat, with a note of Amrendra Kumar Yadav (petitioner) that both cheques will be credited in the Account No. 6268727981 (D.M. Bhagalpur) and same was approved by the District Magistrate, Birendra Prasad Yadav on 27.09.2014.

The front page of cheques were filled by Amarendra Kumar Yadav (petitioner) and counterfoil bears handwriting of Amarendra Kumar Yadav which shows Rs. 12,20,15,075/- was credited in the Account No. 6268727981 (D.M. Bhagalpur) and customer pay-in-slip was pasted in cheque book issue register in respect of account no. 6268727981 (D.M. Bhagalpur) but as per bank copy of deposit slip as obtained during enquiry from Bank on

21.07.2017 the amount was credited in Account No. 822726685 in the name of Srijan Mahila Vikas Sahyog Samiti Ltd. in the same branch of Indian Bank deposited by Late. Manorama Devi of M/s Srijan Mahila Vikas Sahyog Samiti Ltd. Bhagalpur. The amount was diverted and credited in the account of Srijan Mahila Vikas Sahyog Samiti Ltd. on the basis of endorsement made on reverse side of cheque 'please credit to Account No. 822726685' with Indian Bank under the forged signature of D.M. Bhagalpur.

Amarendra Kumar Yadav (petitioner) opened a new Account No. 462510110008247 with Bank of India, Bhagalpur, in the name of his wife Puja Kumari and an amount of Rs. 35 Lacs (Thirty Lacs in Cheque and Five Lacs by cash) was deposited from Account No. 462520110000333 of Bank of India which stands in the name of Srijan Mahila Vikas Sahyog Samiti Ltd. by cheque issued by Late. Manorama Devi. However, the same was withdrawn in cash by Md. Ansar, driver of late Manorama Devi by cheque issued by Puja Kumari. A Flat No. 402 in Ghaziabad was purchased in the name of Puja Kumari wife of Amarendra Kumar Yadav (petitioner) and Rs. 26 Lacs was paid through bank account of Srijan Mahila Vikas Sahyog Samiti Ltd. and same was let out on rent to Somesh Sinha and Rs. 13,000/- per month was being credited in HDFC Bank Account of Puja Kumari as rent.

There are sufficient materials collected during investigation showing connivance of petitioner with Srijan Mahila

Vikas Sahyog Samiti Ltd. and bank officials by which huge amount of public money was misappropriated and defalcated and petitioner is beneficiary of said fraudulent transactions.

It has been submitted on behalf of CBI that 9 cases of similar nature is under investigation by CBI involving syphoning of crores of public money by fraudulent means, as such I am not inclined to enlarge the petitioner on bail.

Hence, the prayer for grant of regular bail of the petitioner is hereby rejected.

(S. Kumar, J)

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