# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Criminal Miscellaneous No.50384 of 2018**

Arising Out of PS. Case No.-16 Year-2017 Thana- C.B.I CASE District- Patna

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Atul Rahman Son of Vivekanand Sah All residents of Village - Parvatti, P.S. Vishwavidyalaya, Dist - Bhagalpur.

... ... Petitioner/s

Versus

The State of Bihar through C. B. I., Patna.

... ... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Dr. Anand Kumar

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

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

ORAL ORDER

6 22-11-2018 Heard the learned counsel for the petitioner, the C.B.I. and the State.

The petitioner seeks bail in Spl. Case No. 2/2018, arising out of R.C. 16A/2017, instituted under Sections 120B, 409, 467, 468, 471 and 477A of the Indian Penal Code read with Sections 13(2), 13(1)(C) and 13(1)(d) of Prevention of Corruption Act, 1988.

As per F.I.R. an amount of Rs. 6 crores was illegally transferred from the account of District Welfare Officer, Bhagalpur. The said amount was fraudulently deposited in the account of Srijan Mahila Vikash Sahyog Samiti Ltd., Bhagalpur.

Learned counsel for the petitioner has submitted that petitioner was scale-II Officer at the time of alleged occurrence. His only duty was of passing cheques after verifying the signature of withdrawal on the basis of sufficient fund in the account. Confessional statement of petitioner has been forcibly recorded by the C.B.I. after taking the accused on police remand. Petitioner is physically challenged.

Learned counsel for the C.B.I. has opposed the prayer for bail. He has submitted that petitioner has fully participated in conspiracy and has played active role in misappropriation of the government fund to the tune of Rs. 6 crores from the account of District Welfare Officer, Bhagalpur. He has actively connived in the conspiracy to cheat and misappropriate the fund by Smt. Manorama Devi.

C.B.I. has filed detailed counter affidavit stating therein that in the final report it has come during investigation that competent authority in Bank of Baroda has accorded sanction for prosecution against this petitioner. It has been stated in the final report that out of an amount of Rs. 6 crores, which was deposited in account no. 10010100013517 of Srijan Mahila Vikash Sahyog Samiti Ltd. on 10.11.2016, an amount of Rs. 5.8 crores was transferred to account no. 6459455501 of District Land Acquisition Office at Indian Bank on 29.11.2016 through RTGS voucher prepared by Md. Sarfrajuddin. An amount of Rs. 15 lacs was transferred to account no. 10010100015889 of Executive Engineer, District Urban Development Agency (DUDA) at Bank of Baroda, Bhagalpur on 28.12.2016 through vouchers prepared by this petitioner. It is also mentioned in para 16.7 of aforesaid charge-sheet that this petitioner emailed statement of account no. 10010100016165 and account no. 10010100005460 on 07.07.2017 from official email id of Bank of Baroda, Bhagalpur to Bansidhar Jha on email ID "bdbgp1976@gmail.com" and "amit.78.kumar@gmail.com" which are not registered with the bank for these accounts.

It has also been indicated in the charge-sheet that statement of account no. 10010100016165 of District Welfare Officer, Bhagalpur which was mailed by this petitioner to Bansidhar Jha and Amit Kumar was forged to reflect credit of Cheque No. 333574 dated 08.11.2016 of Rs. 6 crores, which was in favour of "Zila Kalyan Padadhikari, Bhagalpur" in account no. 10010100016165, which was actually credited to account no. 10010100013517 of Srijan Mahila Vikas Sahyog Samiti Ltd.

According to charge-sheet, this petitioner and Bansidhar Jha have connived and conspired with Mrs. Manorama Devi, Sri Arun Kumar, Mahesh Mandal, Rajni Priya, Amit Kumar, Sarita Jha and Sarfrajuddin for committing criminal breach of trust, forgery for cheating and use of forged record for fraudulent misappropriation of aforesaid amount.

The C.B.I. has stated in the counter affidavit that this petitioner was the officer who was handling government business and accounts during his period. C.B.I. has filed document in support of such statement in the counter affidavit.

C.B.I. has mentioned in para 13 of supplementary counter affidavit that Bank of Baroda, Bhagalpur vide its letter no. BR/BHAGAL/CBI/2017-18/326 dated 19.03.2018 has confirmed that this petitioner was Incharge of government business when the statement of DWO account was mailed from bank's official Email to email ID "bdbgp1976@gmail.com" and "amit.78.kumar@gmail.com".

Learned counsel for CBI has submitted that there was sufficient evidence against this petitioner and accordingly was charge-sheeted in this case for his involvement in conspiracy of fraudulent misappropriation of Rs. 6 crores from the account of District Welfare Officer, Bhagalpur.

C.B.I. has stated in para 12 of counter affidavit that CFSL report has been received and it has confirmed that vouchers and cheques used for transfer of funds from Srijan accounts to District Welfare Officer account has been prepared by this petitioner.

Learned counsel for the C.B.I. has submitted that there are sufficient materials against this petitioner in the charge-sheet, which are mentioned in para 16.3, 16.5, 16.7, 16.8, 16.9, 16.10 and

16.12, which is available at running page 46 to 55 of the brief annexed with F.I.R. It has also been submitted that prayer for bail of accused Bansidhar Jha has already been rejected by a Co-ordinate Bench of this Court in Cr. Misc. No. 42736/2018 dated 13.08.2018.

From perusal of aforesaid paragraphs of charge-sheet and also statement made by the C.B.I., this Court finds that this petitioner was part of conspiracy in defalcating the money from the government account to Srijan Mahila Vikash Sahyog Samiti Ltd., Bhagalpur and there are sufficient materials available on record, which have been placed before this Court by the C.B.I. indicating the involvement of this petitioner in the aforesaid misappropriation of government fund in the account of Srijan Mahila Vikash Sahyog Samiti Ltd. in conspiracy with other accused persons.

In view of such, this Court is not inclined to grant bail to this petitioner at this stage. Accordingly, prayer for bail of petitioner is rejected.

**(Sanjay Priya, J.)**

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