IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25328 of 2018

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

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Md. Sarfaraz Uddin, son of Md. Neezamuddin, resident of Mohalla- Vikramshila Nagar, Kahalgaon, Police Station- Kahalgaon, District- Bhagalpur.

... ... Petitioner/s

Versus

The C.B.I. through the Superintendent of Police, CBI/ACU-V/AC-II/ New Delhi.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Yogesh Chandra Verma Sr. Advocate.
For the Opposite Party/s	:	Mr. Bipin Kumar Sinha SC/CBI

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

6 24-08-2018 Heard learned counsel for the petitioner and learned counsel for the CBI.

Learned counsel for the CBI seeks permission to make necessary correction in the counter affidavit.

Permission is accorded.

Petitioner apprehends his arrest in Special case no. 8/17 (R.C. 16A/17), initially registered as Bhagalpur Kotwali P.S. case no. 512/17 instituted for the offence under Section(s) 409,420,467,468,471, and 120B/34 of the IPC but cognizance has been taken under Sections 120B, 409,420,468 and 471 IPC and Sections 13(2), 13(1)(c) and 13(1)(d) of Prevention of Corruption Act.

Learned counsel for the petitioner has submitted that this petitioner has no where received any monetary benefit from the transaction as alleged in the written report. He has further submitted that on the relevant date one semi literate lady came to this petitioner and requested him to fill up the deposit slip of cheque No. 333574 as she was unable to fill up the deposit slip. This petitioner filled up the deposit slip and returned the same to the said lady which was submitted by the said lady before the staff of clearing department. The petitioner has no concern with the clearing department of the said Bank.

Learned counsel for the CBI, on the other hand, appeared and opposed the prayer for bail. He has submitted that petitioner was working as Scale –IV officer in the aforesaid branch. He was working as Joint Manager Credit Department.

In the instant case, allegation in the written report is that the petitioner along with other accused persons by hatching conspiracy, breach of trust, committed forgery of government money amounting to Rs. 6 crores by illegally and fraudulently transferring the amount in account of Srijan Mahila Vikas Sahyog Samiti Ltd.

Learned counsel for the CBI has submitted that cheque issued in the name of District Welfare Officer of the aforesaid amount of Rs. six crores, has illegally been deposited in the account of Srijan Mahila Vikas Sahyog Samiti Ltd. by Mrs.

Manorma Devi in connivance with this petitioner who was employee of the Bank and other accused persons as mentioned in the written report. It is further submitted that misappropriation of Rs. 6 crore is not a single incident in isolation where funds from govt. accounts has been fraudulently misappropriated, but as part of larger conspiracy the petitioner and other accused persons have siphoned off funds to the tune of hundreds of crores from various govt. Department's official Bank accounts at Bhagalpur.

The C.B.I. has filed counter affidavit stating therein that during investigation it was revealed that Mrs. Manorama Devi of Srijan Mahila Vikas Sahayog Samiti Ltd. connived with this petitioner, who was Manager (Credit) and other accused persons, prepared a forged documents to effect illegal transfers of Rs. 6 crore from government account of District Welfare Officer, Bhagalpur. This petitioner being the Bank employee at Bank of Baroda Bhagalpur, conspired with Mrs. Manorma Devi and in furtherance of that conspiracy prepared a bogus and forged common deposit slip which was used for depositing a cheque of Rs. 6 crore which was in favour of District Welfare Officer, Bhagalpur in the account of Srijan Mahila Vikas Shayog Samiti Limited. Learned counsel for the CBI has further submitted in counter affidavit that cheque no. 333574 and its linked voucher was brought to the branch by petitioner himself and despite knowing that the cheque no. 333574 was in favour of District Welfare Officer, he deliberately and with dishonest intention prepared a voucher for depositing this cheque no. 333574 of Rs. 6 crore in Srijan account and directed the staff junior to him to process the same for payment. The junior staff complied with his directions and it was because of dishonest intention of petitioner the cheque of Rs. 6 crores was misappropriated by crediting the amount in the account of Srijan Mahila Vikas Sahyog Samiti Ltd. It is further submitted in counter affidavit that the cheque was not presented by any lady to the clearing staff of bank. The petitioner himself brought the cheque and voucher to the Bank. The Bank staff at clearing counter, who processed the cheque no. 333574 of Rs. 6 crore and its linked common deposit slip in CBS system have categorically named the petitioner as the person who gave him this cheque and voucher. The petitioner not only prepared forged and bogus common deposit slip which was used to deposit for cheque no. 333574 of Rs. six crore in the account of Srijan Mahila but later also prepared cheque no. 654021 dated 29.11.2016 of Rs. 5.80 crores along with the RTGS voucher, for transferring the defrauded amount from Srijan account no. 6459455501 to District Land Acquisition Officer at Indian Bank. The hand writing of petitioner on the aforementioned vouchers and cheque is not only identified by the independent witnesses but also confirmed by CFSL vide its report. The petitioner is directly involved in misappropriation of the amount. Learned counsel for the CBI has further submitted that charge sheet has also been filed against this petitioner for the offence under Sections 120B,409, 467, 468, 471 of the IPC and Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

Considering the aforesaid facts and circumstances and serious allegation, this Court is not inclined to grant anticipatory bail to the petitioner. Prayer for anticipatory bail of the petitioner stands rejected.

Petitioner may surrender before the Court below and make prayer for regular bail which shall be considered and disposed of on its own merit in accordance with law without being prejudiced by the present order.

(Sanjay Priya, J)

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