IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42736 of 2018

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Bansidhar Jha, Son of Janardan Jha, resident of Bhikhanpur, Bhatta Road, Gadhaiya Tola, P.S. Ishakchak, District- Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar through C. B. I., New Delhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiwesh Chandra Mishra

For the Opposite Party/s : Mr. Sanjay Kumar (SC,CBI)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

5 21-08-2018 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is in custody since 14.11.2017 in connection with R.C. 16(A) 17 for the offence registered under Sections 34, 120(B), 409, 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with Section 13(1) (c) and 13 (1) (d) of the P.C. Act.

The petitioner is an accused in the Srijan Scam, Bhagalpur which has come to the fore, wherein several public servants and private persons including functionaries of the bank have been involved in a well organized conspiracy, in which crores of public money has been siphoned off and various departments of the government has been clearly defrauded.

Learned counsel appearing on behalf of the petitioner submits that in the initial first information report which was lodged there was no mention of the petitioner's name and his name has surfaced only after submissions of the second charge sheet wherein it has been alleged that the petitionerm, in connivance with the officials of the Bank of Baroda, Bhagalpur, Srijan Mahila Vikas Sahyog Samiti Ltd. and others, fraudulently misappropriated Rs.6 crores from the accounts of District Welfare Officer, Bhagalpur. Consequently, the petitioner is now facing prosecution as the allegation which has come against him is that one Shri Atul Raman, Officer Scale – II, Bank of Baroda, Banshidhar Jha (petitioner) and proprietor of M/s Prerna Graphics, Trimurti Chowk Bhagalpuris, Mrs. Rajni Priya, director, Srijan Mahila Vikas Sahyog Samiti Ltd and Shri Amit Kumar, Financial Advisor, SMVSSL have in conspiracy with each other, prepared and used forged documents to cheat and fraudulently misappropriate Rs.6 crores from the account of District Welfare Officer, Bhagalpur.

It has been alleged that an amount of Rs.6 crores which was credited in Srijan account number 10010100013517 on 10.11.2016, an amount of Rs. 5.8 crores was transferred to account number 6459455501 of District Land Acquisition Office at Indian Bank on 29.11.2016 through RTGS voucher prepared by Md. Sarfraj Uddin. An amount of Rs. 15 lakhs was transferred to account number 10010100015889 of Executive Engineer, District Urban Development Agency (DUDA) at Bank of Baroda, Bhagalpur on 28.12.2016, through vouchers prepared by Atul Raman.

Apart from other allegations, as made out in the charge sheet, it has been mentioned at paragraph – 16.7 of the said charge sheet that Shri Atul Raman emailed statement of Account no. 10010100016165 and Account no. 10010100005460 on 07.07.2017 from the official email I.D. of Bank of Baroda (BOB), Bhagalpur to Bansidhar Jha (petitioner) on email I.D. bdbgp1976@gmail.comand amit.78.kumar@gmail.com which are not registered with bank for these accounts. Thus, Shri Atul Kumar being an officer of the bank with intent and will abetted Shri Banshidhar Jha in preparing forged statement with the help of original statement received from Atul Raman and the said forged statement prepared by Bansidhar Jha (petitioner) was placed on the record of the District Welfare Officer by Late Mahesh Mandal. Furthermore, at paragraph – 16.8 of the said charge sheet, it has been indicated that the statement of account no. 10010100016165 of District Welfare Officer, Bhagalpur which was mailed by Atul Raman to Banshidhar Jha and Amit Kumar was forged to reflect credit of cheque 333574 dated 08.11.2016 of Rs.6 crores which was and in favour of "Zila Kalyan Padadhikari, Bhagalpur in Account no. 10010100016165, which was actually credited into the Account no. 10010100013517 of Srijan Mahils Vikas Sahyog Samiti Ltd. (SMVSSL) on 10.11.2016. Thus, according to the charge sheet, the allegation against the petitioner is that Shri Atul Raman and Banshidhar Jha connived and conspired with Mrs. Manorama Devi, Shri Arun Kumar, Mahesh Mandal, Rajni Priya, Amit Kumar, Sarita Jha and Sarfraj

Uddin for committing criminal breach of trust, forgery for cheating and used forged record for fraudulent misappropriation of government funds.

It has also been submitted in the counter affidavit filed by the CBI that in view of such findings which have come in the charge sheet which is based on sufficient oral and documentary evidence, the petitioner is facing prosecution and the investigation is still under progress. Thus, the petitioner should not be released on bail. It has also been submitted that in the backdrop of the findings that the petitioner was involved in the preparation of forged statements of government accounts and their being positive evidence to the said effect, the accused petitioner was searched and a laptop and pen drives were seized and had been sent to the CFSL, New Delhi for forensic examination and the report of the same is still awaited. In the counter affidavit filed by the CBI, it has been pointed out that email logs of Bank of Baroda, Bhagalpur was sought from "Data Resource Site" of Bank of Baroda at Hyderabad to ascertain, to whom such statement of government accounts were mailed by bank officials and the said organization vide its letter dated 02.11.2017 submitted logs of mails sent from Bank of Baroda, Bhagalpur and they were scrutinized with the help of cyber experts and it was found that the statement of government accounts were mailed from Bank of Baroda, Bhagalpur to an email I.D. "bdbgp1976@gmail.com" many times. The scrutiny further revealed that an email was sent from Bank of Baroda, Bhagalpur on 07.07.2017 to "bdbgp1976@gmail.com" and the statement of DWO Account no. 10010100016165 and 10010100005460 are enclosed as attachment to this mail. The copy of this mail is also sent to email I.D. amit.78.kumar@gmail.com which is email of Amit Kumar, son of Smt. Manorma Devi.

It was further stated in the counter affidavit filed by the CBI that Atul Raman was the officer, who was handling Government business and accounts during his period, this statement was sent by him. Investigation revealed that forged statement of account no. 10010100016165 which was on record of DWO was enclosed with first information report of the case is for the period 08.11.2016 to 06.07.2017. The statement enclosed with email I.D. dated 07.07.2017 is also for the same period, thereby proving that forged statement of account was on record of DWO and was prepared with the help of statement enclosed with mail.

Learned counsel for the CBI further submitted that the petitioner is a part of the conspiracy to misappropriate money from the government account into the account of Srijan and the investigation would be seriously prejudiced if the petitioner, who is very close to the said Smt. Monarma Devi and Amit Kumar and, therefore, there is every likelihood that he may indulge in tampering with the evidence and also influence witnesses in the case. It is, thus, submitted that the petitioner be not enlarged on bail.

Learned counsel appearing on behalf of the petitioner further submitted that unless and until the report of the FSL is received, the incarceration of the petitioner is on pure suspicion and, therefore, he is entitled to the privilege of bail and such allegations alone should not be enough to keep him behind the bars. He, thus, reiterates his prayer for bail.

Having heard learned counsel for the petitioner and learned counsel for the CBI and upon perusal of the materials available on record which have been placed before this Court by the CBI and also after deep study of the charge sheet and the allegations made therein there appears to this Court that there is much positive material against the petitioner indicating his involvement in the multi crore scam and since the investigation is still under progress, I am not inclined to grant regular bail to the petitioner. It is, accordingly, rejected.

(Anjana Mishra, J)

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