IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3330 of 2018

Arising Out of PS.Case No. -74 Year- 2014 Thana -KOTWALI District- MUNGER

==

Shambhu Kumar Soni, S/o Late Ram Padarath Sah, R/o Mohanpur (Sadar Bazar, Masjid), P.S.- Jamalpur, Distt.- Munger.

.... Petitioner

Versus

The State of Bihar through the Vigilance, Patna, presently Economic Offence Unit, Patna.

.... Opposite Party

==

Appearance :

For the Petitioner : Mr. Jyoti Ranjan Jha, Advocate.
For the Opposite Party : Mr. Vishwanath Pd. Sinha (Eou Unit) and Mrs. Soni Srivastava, Advocates.

==

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

5 19-07-2018 Heard learned counsel for the petitioner and learned senior counsel for the opposite party no. 2.

The petitioner is languishing in custody since 16.01.2015 to 07.08.2015, 29.02.2016 to 30.03.2016 and 14.02.2017 to up till now, in a case for the offence registered under Sections 406, 409, 420, 467, 468, 471, 120(B) of the IPC. Sections 7, 12, 13, 14 of Prevention of Corruption Act, 1988 and Sections 65, 66(II)/72 of I.T. Act, 2000.

The prosecution story, in brief, is that there was misappropriation of Rs. 1,70,82,000/- (One Crore Seventy Lakhs and Eighty Two Thousand) in the office of Excise Superintendent, Munger, which was detected during Audit of 2013-14. The audit

WEB COPY

was done till November, 2013 and it was found that after verification of treasury challans and physical verification of actual amount deposited, it was detected that there was vast discrepancies in between them. The Auditor informed the District Magistrate and requested the District Magistrate to verify the actual deposited amount and the challans and bank scroll with treasury schedule. After verification, it was detected that Majid Ahmad, actually deposited Rupees Thirteen Thousand but produced the challans of Rupees Five Lakhs and Thirteen Thousand. Similarly co-accused Jawahar Mishra deposited only Rupees Eight Thousand and Seven Hundred Two but challan of Rupees One Lakh Ninety Eight Thousand and Seven Hundred Twenty. Similarly, from August to December, 2013, license holder deposited license fee in the treasury amounting to Rs. One Crore and Seventy One Lakh Twenty Thousand Five Hundred and Ninety whereas actual amount was only deposited Rupees Thirty Eight Thousand and Five Hundred Ninety Only. In this way, Rupees One Crore and Seventy Lakhs Eighty Two Thousand amount was deposited. After thorough enquiry and verification, it was found that Head Clerk and the Assistant of the office in conspiracy with the license holders prepared forged challans and after giving seal of State Bank of India, Munger, with forged

WEB COPY

signature of the bank, they kept the Challan into the office record and original challans of less amount was removed. It is mentioned that Joginder Kumar, Head Clerk, is the main accused and when he came to know about the enquiry, he took poison on 01.03 2014 for committing suicide. He was admitted in Munger Hospital. Almirah of said Jogindra Kumar was searched and Rupees Two Lakh and Eighty Nine Thousand Five Hundred Fifty One in cash was recovered. Thereafter, his house was searched and from where large number of documents as objectionable official seals of bank etc. were recovered more fully described in the F.I.R.

Earlier bail application of the petitioner was disposed of with an observation on the undertaking given by the petitioner that he shall deposit an amount of Rs. 20,00,000/-(Rupees Twenty Lacs Only) within a period of six months. After expiry of the said period, a modification application was filed for extending the period of six months by another six months. The said modification application of the petitioner was allowed and he was granted provisional bail with an undertaking that he shall be depositing the amount in question. Thereafter, a third modification application was filed seeking further time. The said application was rejected and the petitioner was directed to surrender in the learned court below within a period of four weeks. The court below was also

WEB COPY

directed to conclude the trial preferably within a period of nine months.

A report has been called for from the court below regarding the stage of the case. It has been reported by the court below that the charge has been framed on 24.02.2017 and the process has been issued against the witnesses.

It has been submitted by learned counsel for the petitioner that the petitioner has remained in custody approximately for 23 months and there is no chance of trial to be concluded in near future. Other co-accused persons have been granted bail by another Co-ordinate Benches of this Court vide Cr. Misc. Nos. 21689 of 2014 dated 06.01.2015, 25109 of 2015 dated 03.06.2015, 35644 of 2015 dated 03.09.2015, 23683 of 2014 dated 07.09.2015, 28690 of 2015 dated 29.09.2015 and 26139 of 2014 dated 30.09.2015.

It has been accepted by Mr. Vishwanath Prasad Sinha, learned senior counsel appearing for the Economic Offences Unit that other co-accused persons in the present case with the similar accusation have already been granted bail by another Co-ordinate Benches of this Court.

Considering the aforesaid facts and circumstances, let the petitioner above named, be released on bail on furnishing bail

WEB COPY

bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance-I, Patna, in connection with Special Case No. 37 of 2014 (arising out of Munger Kotwali P.S. Case No. 74 of 2014.

It is further directed that the petitioner shall be physically present in the court below on each and every date. If the petitioner absents himself on two consecutive dates, learned court below will be at liberty to cancel the bail bond of the petitioner.

U.K./-

(Sudhir Singh, J)

U		T	

WEB COPY