

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15986 of 2018

Arising Out of PS.Case No. -15 Year- 2017 Thana -C.B.I CASE District- PATNA

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1. Hari Shankar Upadhyay @ Hari Shankar Upadhya S/o Late Ramanandan Upadhyay, R/o Upadhyay Bigha, P.S.- Kaler, District- Arwal, At present Adampur, Red Cross Road, P.S.- Adampur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Union of India through Central Bureau of Investigation, New Delhi.

.... Opposite Party/s

WITH

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Criminal Miscellaneous No. 16262 of 2018

Arising Out of PS.Case No. -15 Year- 2017 Thana -C.B.I CASE District- PATNA

- =====
1. Pankaj Kumar Jha S/o Late Kamal Narayan Jha R/o Village - Chakauti, P.O. - Chakauti, P.S. - Nanpur, District - Sitamarhi, at present - Rupam Utsav Hall, Mithila Colony, Nasriganj, P.O. - Belaganj, P.S. - Danapur, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through C. B. I..
2. The Bhagalpur Central Co-operative Bank Ltd. Bhagalpur, through the Managing Director, Jageshwar Mandal Bhawan, Red Cross Road, Adampur, District - Bhagalpur.
3. The Managing Director, the Bhagalpur Central Co-operative Bank Ltd. Bhagalpur, Jageshwar Mandal Bhawan, Red Cross Road, Adampur, District - Bhagalpur.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.15986 of 2018)

For the Petitioner/s : Mr. Manan Kumar Mishra, Sr. Advocate
Mr. Vishwajeet Kumar Mishra, Advocate

(In Cr.Misc. No.16262 of 2018)

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Avanindra Kumar Jha, Advocate
Mr. Ranjan Kumar Jha, Advocate
Mr. Purshottam Kumar Jha, Advocate

(In both these cases)

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



For the Bank: Mr. Ashok Yadav, Inspector, CBI
Mr. Rakesh Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
CAV ORDER
Date: 02-08-2018

Heard learned counsel for the petitioners and learned counsel for the Central Bureau of Investigation.

2. The petitioners seek bail in a case registered for the offences punishable under Sections 120B/409/420/467/468/471/34 of the Indian Penal Code and Section 13(2) read with Sections 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988.

3. The present criminal prosecution is notoriously known in the State of Bihar as SRIJAN scandal of rupees thousands of crores. The FIR was lodged by the successor Land Acquisition Officer alleging therein that compensation amount of land acquisition matter was deposited in different bank accounts by the predecessor and the same were collusively and wrongly transferred to SRIJAN Mahila Vikas Sahyog Samiti and in turn SRIJAN Mahila Vikas Sahyog Samiti transferred the amount in the bank account of the person involved in the conspiracy of misappropriation/defalcation.

4. The petitioners are not named in the FIR. Their involvement surfaced during investigation by the Central Bureau of Investigation as conspirators and responsible person for dwindling



of public money of Bhagalpur Central Cooperative Bank Limited, Bhagalpur. The petitioners were holding the post of Manager Accounts and Managing Director respectively of the Bhagalpur Central Cooperative Bank Limited at the relevant time. The material collected during investigation against the petitioners is that the petitioners had issued different cheques of crores of rupees to the Indian Bank along with a request letter for depositing those money and opening of Simple Term Deposit account. However, the authorities of Indian Bank deposited those money in the account of SRIJAN and the petitioners did not care till lodging of the FIR or investigation of the case as to what happened to the crores of rupees of Bhagalpur Central Cooperative Bank Limited, Bhagalpur, which were sent for deposit in Simple Term Deposit account in the Indian Bank.

5. During investigation, material was collected that the petitioners produced forged letter said to be issued by the Indian Bank, Bhagalpur Branch, to the Bhagalpur Central Cooperative Bank Limited, showing that they would pay 10% yearly interest; whereas there was no such proposal from Indian Bank. On the basis of that forged letter, the file was processed by Ved Prakash Upadhyay, an employee of Bhagalpur Central Cooperative Bank Limited on the persuasion of the petitioners to facilitate sending the



money to Indian Bank. This fact has come in the statement of Ved Prakash Upadhyay before CBI. Further material was collected that the guidelines of the Reserve Bank of India as well as the Bye-laws of the Central Cooperative Bank and resolution of the Board was not followed while opening of bank account on 01.12.2012 in the Indian Bank. Even the KYC requirements were not fulfilled. After opening of the bank account, further money was sent in crores through cheques for deposit of the same in sweep account. Even that money was transferred to the SRIJAN by Indian Bank Officials, who are also co-accused in this case.

6. Allegation is that an identical act has been committed by the petitioners by depositing money with Bank of Baroda. The aforesaid facts transpired from the charge sheet submitted by the Central Bureau of Investigation and further investigation is still pending in the matter of other defalcations against the petitioners.

7. Learned counsel for the petitioners submits that there is no evidence collected by the Central Bureau of Investigation to substantiate that the petitioners were part to the conspiracy alleged. The petitioners had simply sent cheques to be deposited in the Simple Term Deposit or sweep account. If the authorities of Indian Bank made any interpolation, as alleged by Central Bureau of Investigation, on the cheques and diverted the fund to some other



account, it is not fault of the petitioners. The only negligence which can be alleged on the part of the petitioners is that they were not vigilant to watch the status of their cheques sent to the Indian Bank for which they may be departmentally proceeded but there is no material to substantiate that the petitioners in any way benefited from the transfer of the fund by the Indian Bank to the account of SRIJAN. Moreover, the petitioners are already in custody for last one year and they are ready to cooperate with the trial. The allegation of conspiracy part is still unsubstantiated.

8. Learned counsel for the Central Bureau of Investigation opposed the prayer for bail on the ground that public money has been embezzled in a conspiracy hatched by different stakeholders and the act committed has wide socio-economic impact. Moreover, the investigation relating to other embezzlement by sending cheques to Bank of Baroda by the petitioners is still going on. In the event of release, the petitioners are likely to influence the witnesses and tamper with the evidences. Submission is that there need not be necessarily the evidence of benefit from the conspiracy. However, the evidence collected would support that such huge amounts were sent to the Indian Bank for deposit in particular account and the same were not deposited. However, the petitioners being controller of the office, and expected to maintain a



record of different deposits of Bhagalpur Central Cooperative Bank Limited in different accounts were silent deliberately for the reason that they were the part of the conspiracy. It is mentioned in the charge sheet that the current account of the BCCBL bearing 10010100013202 was opened in the Bank of Baroda by anti-dating it on 26.11.2012; whereas the file for opening of the said account was processed on 28.11.2012 in the office of Bhagalpur Central Cooperative Bank Limited.

9. After hearing the parties and considering the materials produced on the record, the following facts emerges:

- (i) Different cheques of crores of rupees were sent by the petitioners to Indian Bank to be deposited in STD and the money was not deposited rather transferred to the account of SRIJAN and the petitioners kept silent to enquire about the status of such huge amount, is strong circumstance of involvement of the petitioners in criminal conspiracy.
- (ii) A forged letter said to be issued by Indian Bank proposing payment of 10% interest was produced by the petitioners to Ved Prakash Upadhyay, an employee of the BCCBL and Ved Prakash Upadhyay was asked to process the file on



the basis of that letter for deposit of the matured amount in the State Bank of India to the Indian Bank to get more benefit. This was deliberate act of the petitioners.

10. No money was ever deposited by Indian Bank in any account of Bhagalpur Central Cooperative Bank Limited and the petitioners were silent for such a long time which cannot be said to be a case of mere negligence.

11. Therefore, considering the nature and seriousness of allegation against the petitioners, I am not inclined to enlarge the petitioners on bail. Hence, the prayer for bail of the petitioners is refused.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	01.08.2018
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