IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34601 of 2018

Arising Out of PS. Case No.-17 Year-2017 Thana- C.B.I CASE District- Patna

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Rakesh Kumar @ Rakesh Kumar Yadav, Son of Late Kasturi Prasad, resident of Near Sheethla Sthan, P.S. Tilaka Manjhi, District- Bhagalpur (Bihar), At present village- Tintanga Karari, P.S.- Gopalpur, District- Bhagalpur.

... ... Petitioner/s

Versus

Central Bureau of Investigation.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Y.V. Giri, Sr. Advocate
Mr. Pranav Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

5 07-08-2018 Heard learned counsels for the petitioner and the State.

The petitioner, already in custody since 12.08.2017, seeks bail in connection with Special C.B.I. Case No. 04 of 2018 arising out of RC. No. 17A of 2017 bearing RC 2172017A0017 dated 25.08.2017 registered under Sections 120B, 409, 419, 420, 467, 468 and 471/34 of the Indian penal Code.

Accusation, in brief, made in the FIR is that Rs. 82,96,58,252/- allocated by the Central and State Governments, under Mukhya Mantri Gramodya Yojna and of 13th Finance Commission Planning marked for development project under various Government schemes, were misappropriated in conspiracy of all accused persons and transmitted in the Bank Account of one NGO, named as, Srijan Mahila Vikas Sahyog

Samiti Limited. The Government money was fraudulently misappropriated over a long period from 2009 to 2017 with respect to the funds received under various Government schemes for executing the Rural Development Projects to be executed by the Deputy Development Commissioner through the Block Development Officers, who, in turn, compiled the expenditure report of the scheme on monthly basis and forwarded the same to Zila Parishad where the said report was compiled and sent to the Panchayati Raj Department of the State every month. In investigation, it transpired that Zila Parishad receives funds either through Banker's cheque issued in the name of DDC-cum-CEO, Zila Parishad or through allotment letter and the funds received through Banker's cheque are first entered in the Cash Book of the concerned scheme maintained in the office of DDC-cum-CEO, thereafter such Banker's cheque is deposited in the account of the concerned scheme with the Bank by the present petitioner, Nazir of the office of the DDC-cum-CEO. After receiving the funds, entire process is done by the Nazir up to depositing the cheque by filing pay-in-slip of the bank for depositing the cheque amount in the D.D.C. account but neither the pay-in-slip was filled up by the Nazir nor counterfoil of it was kept on official record rather cheques were handed over to Bank officials in conspiracy and the cheque amount was transferred to the account of Srijan Mahila Vikash Sahyog Samiti even false bank statement was kept on record by the petitioner.

Learned senior counsel appearing on behalf of the petitioner submits that petitioner is not named in the FIR and only responsibility of the petitioner being Nazir of the D.D.C. was to deposit the banker’s cheque with the bank, accordingly, he used to hand over the cheque to the bank officials and it’s bank officials, who transmitted the amount by depositing the same into the account of Srijan Mahila Vikas Sahyog Samiti Limited. So it was the act of the bank officails who after coming into connivance with Manorma Devi, Secretary of Srijan Mahila Vikas Sahyog Samiti Limited committed the offence of fraudulent misappropriation of Government money and there is no evidence that this petitioner handed over the cheque to any other person than the bank employee. Moverover, it’s a scam involving several crores, had the petitioner been involved in such offence, there must have been disproportionate asset in his name or in the name of his relatives, disproportionate to his known source of income and the petitioner is a Government employee so there is no chance of his escaping away from trial;

moreover, investigation has been completed in the case.

Learned counsel appearing on behalf of the C.B.I. submits that petitioner is a key accused involved in the entire scam as his responsibility was to fill the bill forms and challans and to get it processed to the treasury office and after issuance of P.L.Cheques by the treasury office, he had to send the same to the S.B.I. Main Branch, Bhagalpur for issuing Banker's cheque and after receiving it, the petitioner being Nazir is responsible to enter the details of allotted funds in the Subsidiary Cash Book maintained in the office and thereafter to deposit the Banker's cheques in the account of concerned schemes maintained with the Nodal bank and thereafter required to attach the counterfoil of the pay-in-slip to the concerned page of the Subsidiary Cash Book, but there is no such counterfoil of pay-in-slip on the record showing the cheques deposited in the DDC account rather those cheques were deposited to the accounts of Srijan Mahila Vikas Sahyog Samiti Limited and the period of scam is for very long period of 17 years and during entire period, the petitioner was Nazir in the office of D.D.C.-cum-C.E.O., even the false bank statement was placed by the petitioner on the official records and there is evidence that the petitioner after collecting the Banker's cheque, did not get it credited in the account of D.D.C.-cum-C.E.O., the cheques were deposited in the account of Srijan Mahila Vikas Sahyog Samiti Limited with the connivance of the bank officials and also attached the cash book of different schemes and records, which were fake and manipulated one. Further submission is that other co-accused also not named in the FIR have been denied bail by a co-ordinate Bench of this Court vide Cr. Misc. NO. 15986 of 2018 and Cr. Misc. No. 16262 of 2018.

Having considered the aforesaid facts and circumstances of the case in particular alleging a pivotal role played by the petitioner in conspiracy with others in this huge scam diverting the government money, marked for developmental work, to Srijan Mahila Vikas Sahyog Samiti Limited, for misappropriation, hence prayer of bail of the petitioner is rejected.

(Arun Kumar, J)

sujit/-

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