IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.25990 of 2020

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna

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Ajay Kumar Pandey, aged about 51 years, male, Son of Rameshwar Pandey, Resident of Village - Masakchak Sarat Chand Path, P.S.- Aadampur, District - Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau of Investigation (C.B.I.), New Delhi.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Adv.
For the C.B.I. : Mr. Bipin Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

5 03-12-2020 Heard Mr. Sanjeev Ranjan, learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned counsel for the Central Bureau of Investigation.

The petitioner seeks bail in connection with Special Case No. 3 of 2018-Cum-RC 11(A) of 2017, arising out of Kotwali (Tilkamanjhi) P.S. Case No. 494 of 2017, which has been instituted for the offences under Sections 120-B read with Sections 409, 420, 467, 468 and 471 of the Indian

Penal Code and Section 13(2) read with Section 13 (1) (c) and (d) of the Prevention of Corruption Act, 1988.

At the outset, learned counsel for the petitioner has submitted that he is in custody since 21.11.2017 and even after the submission of charge-sheet some times ago, the charges have also not been framed.

So far as the allegation against the petitioner is concerned, it has been alleged in the F.I.R. and which fact finds mention in the charge-sheet that a forwarding letter with particular reference number dated 02.01.2018 along with a certified copy of Bank of India Cheque No. 16760, dated 06.08.2016, of Rs. 25,00,000/-, which was issued from an account No. 462520110000333 held in the name of M/s Srijan Mahila Vikas Sahyog Samiti Ltd. in favour of Smt. Manorma Devi, was fraudulently encashed by the petitioner. The aforesaid allegation has been made on the basis of the presence of the signature of the petitioner on the backside of the aforesaid cheque. Apart from this, in the entire First Information Report, there is no allegation against the petitioner.

It has been submitted on behalf of the petitioner that the cheque in question was also signed by late Smt. Manorma Devi apart from the petitioner and it was wrong for the C.B.I. to have jumped to the conclusion that the amount of the cheque was withdrawn by the petitioner only on behalf of aforesaid Manorma Devi, who at the relevant time served as Secretary of M/s Srijan Mahila Vikas Sahyog Samiti Ltd.

The learned counsel for the petitioner has argued that the counter signature of the petitioner was only by way of abundant precaution and since it was a bearer cheque and the payee of the cheque had signed the same, there cannot be any presumption that the money was withdrawn by the petitioner which was meant to be withdrawn by the payee of the cheque.

Apart from this, the learned counsel for the petitioner has drawn the attention of this Court to the fact that one Vinod Kumar @ Binod Kumar, who is alleged to be driver of the petitioner, has been granted bail by a Bench of this Court in Cr. Misc. No. 86875 of 2019 *vide* order dated 15.07.2020. It has further been pointed out that though the allegation against the petitioner is that he had colluded with his driver/Vinod Kumar for remittance of the account in his favour, but the claim of aforesaid Vinod Kumar is that he was hired by the Bank of India for facilitating the work of remittance, so far as cheques were concerned.

Mr. Sanjeev Ranjan, learned counsel for the petitioner has further submitted that out of the five cases which have been lodged against the petitioner, he has been granted bail in one of them, *viz.*, Special Case No. 9 of 2017, which arises out of RC 15A of 2017.

Additionally, it has been submitted that in a similar matter, though not in the present RC case, but in a case relating to *Srijan* scam, one of the accused persons was granted bail by the Hon'ble Supreme Court only after taking into account that charge-sheet in that case had been submitted and the appellant had been in custody since 19th of August, 2017 (Cr. Appeal No. 484 of 2020/arising out of SLP (Cri.) Nos. 1530 of 2020).

As opposed to the aforesaid contention, Mr. Bipin Kumar Sinha, learned counsel for the C.B.I. has drawn the attention of this Court to the part of charge-sheet which revealed that co-accused/Vinod Kumar @ Binod Kumar, a private person, was a driver of the petitioner and he had dishonestly and fraudulently, in conspiracy with the petitioner who served as clerk in Indian Bank, Sabour Branch, Bhagalpur and late Smt. Manorma Devi, had submitted an application dated 18.08.2016, containing the forged signature of the District Magistrate, Bhagalpur for issuance of a cheque-book of Account No. 6268727981, standing in the name of the District Magistrate, Bhagalpur, Nagar Vikas Yojna to Md. Tauquir Quasim, Assistant Branch Manager of Indian Bank, Bhagalpur.

Investigations further revealed, it has been urged on behalf of the C.B.I., that aforesaid Vinod Kumar had collected a cheque-book, using the letter purportedly having forged signature of the District Magistrate, even when he was not authorized to collect any cheque-book in respect of any account by the District Magistrate, Bhagalpur. The cheque-book ought not to have been issued to Vinod Kumar.

On the aforesaid grounds, Mr. Sinha, learned counsel for the C.B.I. submits that the petitioner ought not to be granted bail because he was the main person behind the illegal withdrawal of the money, which was meant to be paid to Smt. Manorma Devi.

However, looking at the nature of accusation against the petitioner, his period of custody which is now three years and the fact that the charges in this case have not yet been framed, this Court is inclined to grant bail to the petitioner. While saying so, this Court has also taken note of the fact that the so-called accomplice of the petitioner, *viz.*, Vinod Kumar has been granted bail by a Bench of this Court and the Apex Court has, on the ground of an accused person remaining in custody for three years in another case pertaining to *Srijan* scam, has granted bail to him.

Considering all these facts, the petitioner above-named is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III-Cum-

Special Judge, C.B.I., Patna in connection with Special Case No. 3 of 2018-Cum-RC 11(A) of 2017, arising out of Kotwali (Tilkamanjhi) P.S. Case No. 494 of 2017.

However, it is made clear that the petitioner shall participate in the trial and his any effort in subverting the trial and impeding its speed, would be seen adversely and the bail granted to him would be liable to be cancelled. In that event, the C.B.I. would be under an obligation to proceed against the petitioner for cancellation of his bail.

With the aforesaid observation/direction, the application stands disposed off.

(Ashutosh Kumar, J)

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