IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33334 of 2019

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

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Ram Krishna Jha Son of Late Maninath Jha, Resident of Brahmin Tola, Police Station-Sabour, District-Bhagalpur.

... ... Petitioner/s

Versus

Central Bureau of Investigation through Its Superintendent of Police, Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar Singh, Adv.
For the C.B.I.	:	Mr.Bipin Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

11 27-05-2020 The matter has been taken up through virtual court proceeding.

Heard learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned counsel for the C.B.I.

The petitioner has preferred the present application for grant of bail in a case registered for the offences punishable under Section 120B, 409, 420, 467, 468, 471 and 477A of the Indian Penal Code and Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988.

The prosecution case as per the written report of Apoorav Kumar Madhukar, In-Charge Sr. Chief Executive Officer, Zila Parishad, Bhagalpur, submitted to the S.H.O., Tilka Manjhi Police Station is to the effect that the office of the D.D.C.-cum-C.E.O., Zila Parishad, Bhagalpur opened bank account with Bank of Baroda, Bhagalpur and Indian Bank, Bhagalpur branch and deposited crores of rupees for the execution of various Government schemes under '14th Finance Commission. The account in Indian Bank was opened on 23.03.2013 when Rs. 16,00,89,751/- was deposited in the said account but from the statement of the bank, it was found that the said amount was actually never credited in the said bank account. Subsequently, it was found that huge amount was transferred to the account of an NGO, namely Srijan Mahila Vikas Co-operative Sammittee Limited (hereinafter referred to as SMVCSL), through its secretary namely Manorama Devi. Similar forgery was made from Bank of Baroda, Bhagalpur Branch and ultimately huge amount was misappropriated. During investigation, it transpired that the Nazir of the D.D.C office, Mr Rakesh Kumar instead of depositing the banker's cheques in the account of D.D.C-cum-C.E.O. at Indian Bank, Bhagalpur, fraudulently handed over the cheques to the petitioner who filled up the paying slips and got it signed by said Manorama Devi. Thereafter the petitioner directed Rahul Kumar, the Assistant, to process the pay-in slips and finally it was passed by the petitioner. The transferred amount of all the three cheques are Rs. 48,81,574/-, Rs. 10,39,18,237/- and Rs.

13,19,75,810/- respectively.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR. His name sprang up during the course of investigation. On the back of all the three cheques, there was endorsement made by the then District Magistrate, Bhagalpur for depositing the same in the account of SMVSL, NGO. Admittedly, the pay-in slip was signed by co-accused Manorma Devi and cheques were ultimately counter signed by the Branch Manager of the bank and thereafter the said cheques were cleared by head office, Chennai, leading to transfer of money in the account of said N.G.O. It is further submitted that the charge sheet has already been submitted but charges have not been framed. The petitioner has already superannuated from service and there is no likelihood of commencement of the trial in near future. The chargesheet suggests that the only accusation of conspiracy has been levelled against the petitioner, whereas the actual beneficiary was co-accused Manorma Devi, who was running the N.G.O.

Mr. Bipin Kumar Sinha, learned counsel for the C.B.I. submits that all the three pay-in slips were filled up by the petitioner though, the same were signed by co-accused Manorma Devi and it was cleared by the petitioner as a result the transaction took place. The cheques were actually issued in the name of the Branch Manager of the said bank. The petitioner is accused in four such cases out of which in RC-15 of 2017 his bail appliction has been dismissed by a Co-ordinate bench of this Court vide Cr. Misc. No. 11592 of 2019. The Nazir of Zila Parishad., Mr. Rakesh Kumar Yadav's bail application has been rejected by a co-ordinate bench of this Court vide order dated 04.12.2019 passed in Cr. Misc. No. 57349 of 2019 with a direction to renew prayer for bail after conclusion of investigation, whereas the bail application with regard to similarly situated co-accused Praveen Kumar, being the Assistant Manager, has been permitted to be withdrawn vide Cr. Misc. No. 54029 of 2019. It is further submitted that further investigation with regard to other co-accused is going on and if the charges have not been framed or the trial has not commenced, the prosecuting agency cannot be held responsible for the same.

Considering the rival submissions of the parties, it is not in dispute that in the pay-in slips through which alleged bankers cheques were deposited in the account of N.G.O., were signed by Manorma Devi and the cheques were ultimately cleared by the Branch Manager leading to crediting the amount in the bank account of S.M.V.C.S.L. by virtue of endorsement of the then District Magistrate made on the back of the cheques to deposit the said cheques in the bank account of N.G.O./co-accused Manorma Devi. The investigation has already been concluded. This is not the case of C.B.I. that the petitioner has not co-operated during investigation. The investigation with regard to the other accused is still going on. The petitioner has already superannuated coupled with the fact that the charges have still not been framed, let the petitioner above named be released on bail for the present provisionally for a period of three months upon furnishing one surety to the satisfaction of the learned Special Judge, C.B.I.-II, Patna in connection with Special Case No. 04 of 2018, arising out of R/C Case No. 17/A/2017.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of the learned Special Judge, C.B.I.-II, Patna in connection with Special Case No. 04 of 2018, arising out of R/C Case No. 17/A/2017.

The learned Court below will be at liberty to extend the period of provisional bail further if the lockdown is not over in next three months.

(Dinesh Kumar Singh, J)

Amrendra/-

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