

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33755 of 2020

Arising Out of PS. Case No.-13 Year-2017 Thana- C.B.I CASE District- Patna

RAKESH KUMAR JHA, S/O - Late Upendra Prasad Jha, R/o Village - Balthara, P.O. - Harchandi, Police Station - Rajaun, District - Banka, Present Address - Near Marwari Pathshala, Police Colony No. 4, Town and District – Bhagalpur (presently under custody at Beur Chentral Jail, Patna.)

... .. Petitioner/s

Versus

The Union of India through C. B. I. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avanindra Kumar Jha, Advocate
For the C.B.I. Mr. Bipin Kumar Sinha, SC, C.B.I.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 22-12-2020 The matter has been taken up through virtual Court proceeding.

Let the defects, if any, be removed within two weeks after start of the physical Court.

Heard learned counsel for the parties.

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

Petitioner is one of the accused in this criminal matter popularly known as SRIJAN Scandal of rupees several crores. Petitioner is in custody since 12.08.2017.

In the past, prayer for bail was refused on 03.12.2018 in Cr. Misc. No. 65830 of 2018.



Learned counsel for the petitioner submits that on merit prayer for bail to co-accused Pankaj Kumar Jha was also refused by this Court and Pankaj Kumar Jha challenged the refusal before the Hon'ble Supreme Court in Criminal Appeal No. 484 of 2020 arising out of SLP (Crl.) Nos. 1530 of 2020. By order dated 17.07.2020, the Hon'ble Supreme Court granted bail to Pankaj Kumar Jha considering the fact that the investigation of the case was already complete and further custody of the accused-appellant was not necessary. Considering the aforesaid order of the Hon'ble Supreme Court, this Court granted bail to co-accused Sarita Jha on renewal of her prayer for bail.

Learned counsel for the petitioner further submits that there is no chance of start of the trial in near future.

Mr. Bipin Kumar Sinha, learned Standing Counsel for the C.B.I. prays for time to file counter affidavit in this case.

Mr. Sinha is appearing on behalf of the C.B.I. in bail matter of other co-accused including the petitioner on previous occasion, hence, he is expected to be fully acquainted with the facts and circumstances of this case. Therefore, there is no need to file a counter affidavit in a bail matter. The conduct of learned counsel appearing for such an institution, like C.B.I., apparently gives an impression that he wants only to delay the matter.



Hence, prayer for adjournment is refused.

Then learned Standing Counsel for the C.B.I. submits that the petitioner does not deserve bail; firstly, on the ground of seriousness of the allegation supported by material available on the record and secondly, on the ground that further investigation of the case against the petitioner is still going on, as such, case of the petitioner is distinguishable from that of Pankaj Kumar Jha against whom further investigation of the case was complete when the Hon'ble Supreme Court granted bail to Pankaj Kumar Jha.

No doubt, the police has power to further investigate the case. However, completion of investigation and submission of charge-sheet would be an important matter for consideration of prayer for bail to an under trial prisoner as criminal law does not permit pre-trial punishment. For period already undergone as under trial prisoner, no accused is going to be compensated after final result of the trial if it goes in his favour. Therefore, In my view, petitioner deserves prayer for bail in the line of some other similarly situated co-accused already enjoying the privilege.

Accordingly, petitioner, Rakesh Kumar Jha, is directed to be released on bail on furnishing bail bond of



Rs.50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Spl. Case No. 07 of 2017 arising out of C.B.I. Case No. RC 13/A/2017 arising out of Bhagalpur Kotwali Police Station Case No. 500 of 2017, subject to the following conditions:-

(a) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the learned court below shall be at liberty to cancel the bail bond of the petitioner.

(b) Both the bailors shall be resident of territorial jurisdiction of the learned court below.

(c) The petitioner shall not leave the country without permission of the learned trial court.

(Birendra Kumar, J)

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