

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40816 of 2019

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

HARI SHANKAR UPADHYAY @ HARI SHANKAR, Son of Late Ramnandan Upadhyay, Resident of Village - Upadhyay Bigha, P.S. - Kaler, Dist. - Arwal. A/P - Corporative Bank Campus, Jageshwer Mandal Bhawan Red Cross Road Amwanpur, Bhagalpur (Samproti, Sevanivrit) Prabandhak Lekha Corporative Bank, Bhagalpur, at Present - Adamapur, Red Cross Road, P.S. - Adampur, Dist. - Bhagalpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Union of India through Central Bureau of Investigation, New Delhi. Govt. of India.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manan Kumar Mishra, Sr. Advocate Mr. Sanjay Kumar Pandey, Advocate
For the C.B.I.	:	Mr. Bipin Kumar Sinha, SC, C.B.I.
For the Opposite Party/s	:	Mr. Ram Bilash Roy Raman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

8 17-08-2020 The matter has been taken up through virtual Court proceeding.

Let the defects, if any, be removed within fifteen days of the start of the physical Court.

Heard, Mr. Manan Kumar Mishra, learned Senior Counsel for the petitioner, Mr. Bipin Kumar Sinha, learned Standing Counsel for the C.B.I. and Mr. Ram Bilash Roy Raman, learned APP for the State.

Petitioner seeks bail in a case registered for the offences punishable under Sections 120(B), 409, 420, 467, 468,



471/34 of the Indian Penal Code and Section 13(2) r/w 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act.

The FIR bearing R.C. 15(A)/17, Special Case No. 09/17 was registered against unknown for offences under Sections 120(B), 409, 420, 467, 468, 471/34 of the Indian Penal Code and Section 13(2) r/w 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act.

During investigation, name of the petitioner and co-accused Pankaj Kumar Jha besides some other accused surfaced as conspirators involved in dwindling of public money for wrongful gain.

Petitioner is in custody since 21.08.2017.

Earlier prayer for bail was refused to the petitioner as well as to Pankaj Kumar Jha on 02.08.2018 by this Court. Thereafter Pankaj Kumar Jha renewed prayer for bail in Cr. Misc. No. 15986 of 2018 and again this Court refused prayer for bail.

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 and by order dated 17th July, 2020, he was allowed bail considering the completion of investigation and period of detention of Pankaj Kumar Jha.



Learned Senior Counsel for the petitioner seeks bail on the ground of parity of the case of the petitioner and Pankaj Kumar Jha as both were posted as Manager and Managing Director of Bhagalpur Central Cooperative Bank Limited at the relevant time.

Learned Standing Counsel for the C.B.I. contends that allegation against the petitioner is on different footing, inasmuch as, the petitioner is posted at the same place since last thirty-five years and he was more responsible for the embezzlement than Pankaj Kumar Jha. Moreover, the trial has not taken any progress due to laches on the part of the prosecution rather the accused persons are filing discharge petition one after another. Hence, the trial is not progressing.

Considering the period of detention of the petitioner and completion of investigation as well as no material to substantiate that the petitioner is going to tamper with the evidence or not cooperate with the trial, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with R.C. 15(A)/17, Special Case No. 09/17, 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 the 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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