IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83361 of 2019

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

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AJAY KUMAR PANDEY Son of Sri Rameshwar Pandey Resident of Masakchak, Sarat Chand Path, P.S.- Adampur, District- Bhagalpur, present resident of village- Meharpur, P.O. Mathurapur, P.S.- Pirpainti, District-Bhagalpur, presently employed as Clerk in Sabaur Branch of Indian Bank (Nationalized), District- Bhagalpur.

... ... Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION, PATNA Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Lakshmi Kant Sharma, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

12 14-10-2020 Heard learned counsel for the petitioner and learned counsel for the CBI.

Petitioner seeks regular bail in connection with **R. C. No.13A/2017 dated 25.08.2017 (Special Case No.7/2017)** registered for the offence punishable under Sections 409, 420, 467, 468, 471/34 of the Indian Penal Code in which charge-sheet was submitted under Section 120B, 409, 467, 468, 471 of the Indian Penal Code and Sections 13(2) read with 13(1) of the Prevention and Corruption Act, 1988.

Earlier the bail petition of the petitioner was rejected

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vide order dated 24.09.2018 passed in Criminal Miscellaneous No. 39701 of 2018.

It is submitted that petitioner was not made accused in any other case but subsequent to this case, petitioner has been made accused in RC 11(A) 2017, RC 15(A)17, RC17(A) 2017, RC7(A)2018, RC14(A)2017, RC15(S)2018 and RC 10(A)2018.

Allegation against petitioner and other accused is of fraudulent diversion of cheque of rupees twelve crore, issued by DLAO from the account of DLAO (Bank of Baroda) Bhagalpur required required to be deposited in the account of DLAO, (Bank of India) Bhagalpur but was fraudulently diverted into the account of SMVSSL (Bank of India) Bhagalpur in connivance and conspiracy by DLAO, Bhagalpur, Najir (Office of DLAO), bank employees and employee of SMVSSL and after investigation CBI submitted charge-sheet against Arun Kumar Singh, retired Chief Manager (Bank of Baroda), Ajay Kumar Pandey clerk, (Indian Bank) (petitioner), Shri Rakesh Kumar Jha, Najir, office of DLAO, Bhagalpur, Smt. Sarita Jha, Manager, SMVSSL, Shri Rajiv Ranjan Singh, DLAO, Bhagalpur, Barun Kumar, Assistant Branch Manager, Bank of Baroda, Bhagalpur being charge-sheet no.6 of 2017 under Sections 120B, 409, 467, 468, 471 of

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IPC and Section 13(2) read with 13(1)(d) of P.C. Act, 1988.

During investigation, it has come that Cheque No.543558 dated 30.07.2014 of rupees twelve crore was issued by DLAO, Bhagalpur in favour of DLAO, Bhagalpur maintained in the Bank of Baroda, Bhagalpur to be deposited in account of DLAO, Bhagalpur in Indian Bank. Accused, Rajiv Ranjan Singh, the then DLAO had also put his signature on back side of the said cheque which was unwarranted. This cheque was presented in Indian Bank, Bhagalpur along with pay-in slip dated 30.07.2014 for credit in the account No.822726685 of SMVSSL by Ajay Kumar Pandey (petitioner) to Rahul Kumar, clerk, Indian Bank and when Rahul Kumar refused to credit the said cheque in the account of SMVSSL, Ajay Kumar Pandey (petitioner) got the endorsement "Please pay to SMVSSL" on the back of said cheque above the signature DLAO done by a sub-staff, namely, Mithilesh Kumar Singh of said branch and it is furtehr alleged that even thereafter Rahul Kumar refused to credit the cheque in account of SMVSSL, Ajay Kumar Pandey, (petitioner) persuaded Assistant Branch Manager and on direction of Assistant Branch Manager to Rahul Kumar, said cheque was credited in the account of SMVSSL after Assistant Manager put his initial on the pay-in slip.

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In order to conceal their misdeeds, accused, Rakesh Kumar Jha (Najir) and accused Rajiv Ranjan Singh (DLAO) forged the entries in the bank account register maintained in the office of DLAO, Bhagalpur showing the cheque of rupees twelve crore to be transferred from the government account of the Bank of Baroda to the government account maintained in the Indian Bank, Bhagalpur. Above amount was subsequently transferred by the accused Sarita Jha, Manager, SMVSSL in criminal conspiracy with late Manorama Devi, Secretary, SMVSSL in favour of Special Land Acquisition Officer, Koshi Project, Saharsa in the Bank of Baroda, Saharsa on 20.04.2015.

It is submitted on behalf of petitioner that the bank had assigned him the duty for service to government bank deposit account, RTGS, BPO, NEFT, marketing and assistance to frontline customer service, loan and pay recovery and in support of which, duty charge vide office order no.68 dated 02.04.2011 has been enclosed as Annexure 4. Several Government offices started depositing their government fund in the Indian Bank including the government office of the DLAO, Bhagalpur.

Allegation against petitioner is that original cheque no.543558 dated 30.7.2014 of twelve crore in favour of DLAO, Bhagalpur was presented by petitioner along with pay-in slip for

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being credited in the account of SMVSSL and at that time, the noting on the back of cheque “Please pay to SMVSSL” was not there and when it was objected by dealing clerk, Rahul Kumar then subsequently “Please pay to SMVSSL” on the back of cheque was written by Mithilesh Kumar Singh, sub-staff who filled it at instruction of petitioner. Rakesh Kumar, Assistant Branch Manager called Rahul Kumar and asked him to process the credit voucher and on the request of Rahul Kumar, Branch Manager signed the pay-in slip and directed Rahul Kumar to process the pay-in slip and subsequently said cheque was cleared by Rahul Kumar and amount was transmitted in the account of SMVSSL. Rahul Kumar, clerk Indian Bank made the entry of the said cheque for outward clearing in the account of SMVSSL and it was passed by Rakesh Kumar, Assistant Branch Manager, Indian Bank and said cheque was passed by Barun Kumar, Joint Manager / Accountant of the Bank of Baroda, Bhagalpur on its inward clearing.

It is further submitted that said cheque and pay-in slip was neither filled up by petitioner nor “Please pay to SMVSSL” was written by petitioner but same was written by Mithilesh Kumar, sub-staff and cheque was cleared by Assistant Branch Manger by putting his initial on pay-in slip and same was

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credited in the account of SMVSSL by Rahul Kumar, however, petitioner has been implicated in this case only on the basis of oral statement made by said Rahul Kumar and Rakesh Kumar although on record, there is nothing to suggest that there was any role of petitioner in getting the said cheque credited in the account of SMVSSL except that same was presented by him which was part of his duty assigned by the bank.

The bail application has been vehemently opposed by Mr. Bipin Kumar Singh, learned counsel for the CBI who has submitted that economic offences have deep rooted conspiracies involving huge loss of public fund and is considered as a grave offence affecting the economy of the country and needs to be visited with a different approach in the matter of bail. There has been alarming rise in white-collar crimes which have serious repercussions on the development of the country. Charges could not be framed due to dilatory tactics adopted by different accused persons.

Petitioner is in custody since 12.08.2017, i.e., more than 3 years and charge-sheet has been submitted on 06.11.2017 but charges have not been framed as yet and there is no likelihood of trial being concluded in near future. It has been further submitted that prosecution has brought nothing on record to

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even remotely suggest that petitioner is beneficiary of such fraudulent transactions and he has acquired any immovable or movable property disproportionate to his known source of income either in his name or in the name of any of his family members. One of the charge-sheeted accused, Sarita Jha, has been granted bail by a co-ordinate Bench of this Court by order dated 04.03.2020 passed in Cr. Misc. No.60402 of 2009.

Report was called for from the trial court with respect to stage of trial, which submitted its report dated 21.7.2020 that Special Case No.7/17 arising out of RC Case No.13(A)/17 is fixed for argument on discharge petition filed by accused Rajiv Ranjan Singh and Barun Kumar. Due to Covid -19 Pandemic since 24th March, 2020, no hearing took place.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail on furnishing bail bond of Rs. 20,000/- with two sureties of the like amount in connection with **R. C. No.13A/2017 (Special Case No.07/2017)** to the satisfaction of learned Special Judge, CBI-II, Patna**,** subject to the following conditions:-

(1) Petitioner shall co-operate in the trial and shall remain present on each and every date fixed by the court and

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his absence on two consecutive dates without proper and valid reason, the trial court shall cancel his bail bonds.

(2) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(S. Kumar, J)

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