IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85137 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- C.B.I CASE District- Patna

==

1. DINKAR TIGGA Son of Late Abnezar Tigga, Resident of Village - Patel Nagar, Road No.10, Hesag, Near Vasundhara Apartment, Hatia, P.S.- Jagarnathpur, Distt.- Ranchi, Jharkhand.
2. Hare Krishna Adak Son of Late Abinash Chandra Adak, Resident of Village - Jatimati, P.O.- New Township Digha, P.S.- Digha, Distt.- Purb Medinipur, West Bengal.

... ... Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION, PATNA Bihar

... ... Opposite Party/s

==

Appearance :
For the Petitioner/s : Mr.Prashant Sinha, Adv.
For the Opposite Party/s : Mr.Bipin Kumar Sinha, Adv.

==

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 21-08-2020 Heard Mr. Prashant Sinha, learned counsel for the petitioners and Mr. Bipin Kumar Sinha, learned counsel for the Central Bureau of Investigation through Video Conferencing.

Petitioners apprehend their arrest in Special Case No.02 of 2019 arising out of R/C Case No.9/A/2018 registered under Section 120B read with Sections 409, 420, 468, 471 of the Indian Penal Code and under Section 13(2) read with Section 13(1)(c) and (d) of the Prevention of Corruption Act.

The F.I.R. bearing R/C Case No.9/A/2018 was instituted on the basis of Banka P.S. Case No.539 of 2017. It was referred to the C.B.I. for investigation. Sri Aditya Kumar Jha, the then Land Acquisition Officer, Banka alleged that on scrutiny of Bank account of the District Land Acquisition Officer, Banka and upon matching of cheque register and Bank statement, it was transpired that the District Land Acquisition Officer, Banka had opened an account in the Bhagalpur Central Cooperative Bank Limited in the year 2002 in the name of District Land Acquisition Officer, Banka bearing Account No.CA/99. The Bhagalpur Central Cooperative Bank Limited, Banka Branch had supplied 41 cheque volumes to the office for the Account No.CA/99. The Bank account was operative from 2002 to 2014. The last transaction took place on 05.08.2014 for an amount of Rs.5,44,162/-. The balance was nil after withdrawal of the amount. The up-to-date Bank statement of the Account No.CA/99 was matched with the cheque register maintained in the office and while matching the statement, it was found that the then District Land Acquisition Officer, Banka has withdrawn certain amounts vide cheque nos.91801, 91802, 91804 and 91805 but in the cheque register, there is no mention of any cheque series starting from 91801. When query was made from the Bank about the cheque series bearing no.91801, it has been informed that the said cheque series was also issued in favour of the District Land Acquisition Officer, Banka but the signature of the person receiving the cheques series is not found on the register. When the up-to-date statement obtained from the Bank was matched with the cheque register, it was transpired that more than Rs.7 crores has been withdrawn by cheque nos.91801, 91802, 91804 and 91805. On enquiry from the Nazir, he disclosed that he did not receive cheque nos.91801 to 91820 and he was not aware about withdrawal of money through these cheques. These cheques were not mentioned in the cheque issue register. On request, the Bank provided the details with regard to the forged cheques and photocopies of the bills in connection with passing of the cheques. From these evidence, it transpires that vide cheque no.91801, the then District Land Acquisition Officer, Smt. Jaishree Thakur issued the cheque in the name of District Land Acquisition Officer, Banka. The transfer of this amount is not traceable. Similar transactions have been mentioned with regard to the other cheques. When the investigation was handed over to the C.B.I., the C.B.I. made thorough enquiry and it was found that cheque no.91804 was issued in the name of District Land Acquisition Officer, Banka with regard to withdrawal of Rs.1.5 crores. The petitioners are concerned with the withdrawal of the amount through cheuqe no.91804.

Learned counsel for the petitioners submits that the petitioners are Assistant Managers in the Indian Bank, Bhagalpur. Petitioner No.1 was posted from January, 2007 to November, 2009 and petitioner no.2 was posted from August, 2008 to May, 2011. It is submitted that petitioners are not named in the F.I.R. During course of investigation, their names surfaced in the case on the basis of the fact that Manorma Devi (Secretary of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur) presented a chaque bearing no.91804 payable to the District Land Acquisition Officer, Banka endorsing on the back of the cheque for payment and credit of the aforesaid amount in the account of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur. Both petitioners, who were officers at the relevant time, processed the cheque without looking into the fact. It was the duty of the Bhalgalpur Central Cooperative Bank Limited not to credit the amount in the account of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur but the Bhagalpur Central Cooperative Bank Limited debited the amount from the account of the District Land Acquisition Officer and credited in the account of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur. It is further submitted that the name of bearer was not deleted from the cheque and in view of the provisions as contained in Section

85(2) of the N.I. Act the officers are duty bound to process the cheque, if received through bearer of the cheque. Therefore, the petitioners have not committed any illegality in processing the cheques and sending the same to the Bhagalpur Central Cooperative Bank Limited for collection and thus, the petitioners deserve anticipatory bail.

Mr. Bipin Kumar Sinha, learned counsel for the C.B.I. vehemently opposed the prayer for anticipatory bail and submitted that from perusal of the cheque, it would appear that the cheque was payable to the District Land Acquisition Officer and the name of bearer was not mentioned in the cheque. Even on the back of the cheque the name of the bearer was not attested by drawer of the cheque but somehow Manorma Devi (Secretary of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur) in collusion with the bank officials of Indian Bank as well as Bhagalpur Central Cooperative Bank Limited illegally got the same credited in the account of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur and misappropriated huge amount. The C.B.I. during course of investigation found that both the petitioners not only violated the circulars of the R.B.I. in processing the cheque but also it has come that both petitioners in collusion with Secretary of

Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur, District Land Acquisition Officer and other officials have misappropriated more than Rs.7 crores.

Having heard both sides and on perusal of records, it appears that the then District Land Acquisition Officer, Banka illegally got the cheque of 91801 series from the Bhagalpur Central Cooperative Bank Limited and he issued the cheques in the name of the District Land Acquisition Officer but handed over the cheque to different persons. All cheques were credited in different names and thereby huge government money has been misappropriated by the District Land Acquisition Officer, Banka in collusion with the Secretary of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur with the help of Bank officials of Bhagalpur Central Cooperative Bank Limited and Indian Bank and other Banks. In the present case also, the drawer of the cheque issued cheque in favour of the District Land Acquisition Officer but simple word "bearer" was not deleted and thereby Manorma Devi got it credited in her own account of Shrijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur in collusion with Bank officials. Government officials generally use to issue pay orders not the bearer cheques. The Bank officials should not have credited the amount to any person unless the signature of the bearer is attested on the back of the cheque. These facts show that the then Land Acquisition Officers with the help of other government officials, Bank Officers in collusion with Secretary, Shrijan Mahila Vikas Sahyog Samiti Limited have misappropriated more than rupees one thousand crores of government money for which many cases including the present one have been registered.

Having considered the facts aforesaid, I am not inclined to enlarge the petitioners on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

Harish/-

U		T	