

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13527 of 2021**

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna

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BANSHIDHAR JHA Son of Sri Janardan Jha R/O Gadhaiya Tola (Budhai Tola), Bhikhanpur, Bhatta Road, P.S.- Ishakchak, District - Bhagalpur

... .. Petitioner

Versus

Central Bureau of Investigation (CBI), New Delhi

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 03-09-2021 When the matter is called out, noticing that earlier the learned standing counsel for Central Bureau of Investigation (in short C.B.I.) had taken adjournment for filing counter affidavit but no counter affidavit is on the record, this Court inquired from Mr. Bipin Kumar Sinha, learned standing counsel as to whether the counter affidavit is to be filed. Mr. Sinha, has submitted that instead of filing of the counter affidavit he would request this Court to hear the matter and consider the same on the basis of the materials on the record. In view of such submission, this Court proceeds with the hearing of the matter.

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

Petitioner in the present case is seeking regular bail in

connection with RC 11/A2017, giving rise to Spl. Case No. 5 of 2020 arising out of Kotwali (Tilkamanjhi) P.S. Case No. 494 of 2017 registered for the offences punishable under Sections 34, 120-B, r/w 409, 420, 467, 468, 471 and 474 of the Indian Penal Code and Section 13(2) r/w 13(1) (c) and 13 (1) (d) of the Prevention of Corruption Act. He is in custody since 12.08.2017 and has been brought on remand in this case on 01.02.2020 after filing of the charge-sheet on 30.12.2019.

As per the First Information Report lodged by one Amrendra Kumar Yadav, an employee of the District Nazarat at Bhagalpur, a cheque of Rs. 12 crore approximately was issued by the District Development Branch, Bhagalpur from its account maintained with the Oriental Bank of Commerce, Tilkamanjhi, Bhagalpur in favour of Manager of Indian Bank, Bhagalpur. The cheque was to be to be deposited in the account maintained by the Indian Bank under the Chief Minister Urban Development Schemes. The allegation is that the cheque was not deposited in the said account rather it was deposited in the account of one Srijan Mahila Vikash Sahyog Samiti Limited (herein referred to as Srijan) in connivance with the concerned bank and Srijan. Further allegation is that from the another account of the Indian Bank which is maintained for operation of

the scheme, an amount of Rs. 5,50,00,000/- has been transferred in the account of Srijan. It is alleged that three cheques were issued on the basis of the requisition containing four signature of the Collector and four signature of the Collector were made on the cheques.

So far as present petitioner is concerned, it is alleged against him that he happens to be the close associate of Smt. Manorama Devi and being posted in the Nazarat, he had prepared forged statements.

Learned counsel for the petitioner submits that in the present case investigation is complete and a charge-sheet has been filed. Till filing of the charge-sheet the C.B.I. did not ask for taking the petitioner on remand. The petitioner is in custody since 12.08.2017 i.e. for more than four years and in the two cases out of total six cases of Srijan scam in which the petitioner has been involved, two learned co-ordinate Benches of this Court have been pleased to grant privilege of regular bail. Learned counsel refers to the order dated 22.02.2021 passed in Cr. Misc. No. 30019 of 2020 and the order dated 21.08.2021 passed in Cr. Misc. No. 10237 of 2021. It is submitted that in Srijan Scam case itself on finding the period of custody being substantial, the Hon'ble Apex Court granted privilege of bail to

the co-accused Pankaj Kumar Jha who happens to be the Managing Director of the Bhagalpur Central Co-operative Bank, vide order dated 17.07.2020 passed in Cr. Appeal No. 484 of 2020. Several other co-accused of Srijan Scam have been granted bail by different learned co-ordinate Benches of this Court as well as this Court. The allegations are similar and at this stage the case is pending for supply of police paper only thus the trial is not likely to commence in near future.

Mr. Bipin Kumar Sinha, learned standing counsel for the C.B.I. has though opposed the prayer for bail of the petitioner but at the same time does not controvert the submission of learned counsel for the petitioner that the allegation against the petitioner is similar in all the cases and he has remained in custody since 12.08.2017 but was never taken on remand during investigation of this case and the charge-sheet was filed on 30.12.2019. It is not controverted that in this case as well, the trial has not commenced and on similar allegations in two other cases, the petitioner has been granted bail.

Considering the facts and circumstances of the case and the uncontroverted submission advanced on behalf of the petitioner and taking into consideration that the petitioner is in custody for more than four years, though in the present case he

has been produced from another case on 01.02.2020 but his remand was never sought for before filing of the charge-sheet, this Court directs release of the petitioner on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Spl. Judge, C.B.I.-II, Patna in connection with Spl. Case No. 5 of 2020-cum-RC 11/A/2017 arising out of Kotwali (Tilkamanjhi) P.S. Case No. 494 of 2017 subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.