IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33112 of 2021

Arising Out of PS. Case No.-7 Year-2018 Thana- C.B.I CASE District- Patna
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Deo Shankar Mishra S/O Late Dayanand Mishra Resident of Village Ranti, P.O. - Ranti, P.S. Rajnagar, District - Madhubani, at present- Bank colony, Lane No. 8, Gola Road (North of Bailey Road), P.S. Danapur, District - Patna.

... ... Petitioner/s

Versus

The State Of Bihar Through The Cbi, New Delhi.

... ... Opposite Party/s
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Appearance :

For the Petitioner/s : Mr. Subhodh Kumar Jha, Advocate
: Mr. Pranav Kumar Jha, Advocate
For the Opposite Party/s : Mr. Bipin Kumar Sinha, Advocate
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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

4 01-12-2021 Heard learned counsel for the petitioner and learned Standing Counsel for C.B.I.

The petitioner seeks regular bail in connection with Special Case No. 4 of 2020 arising out of RC07(A)/2018, CBI/ACU-V/AC-II instituted for the offences under Sections 409, 420, 467, 468 and 471 of the Indian Penal Code read with Sections 13(2), 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988.

Learned counsel for the petitioner submits that petitioner was posted as a Branch Manager, Indian Bank, Bhagalpur Branch and prior to the Srijan Scam, he was a person with clean antecedent and after the scam surfaced, the petitioner came to be implicated in four cases including the present one.

Learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that pay orders and demand drafts were issued in favour of the D.D.C. which were diverted in the account of Srijan by the bank officials of Bank of Baroda and Indian Bank, Bhagalpur Branch. Further, cheques used for withdrawal were not issued for accounts of D.D.C./D.R.D.A. rather the bank officials used to surrender cheques other than the cheque used for D.D.C. account. Further, that amount withdrawn from the D.D.C. accounts in both banks were deposited and transferred in the account of Srijan on various dates. Further, that there are several instances of unauthorised deposits made in the account of D.D.C. from the account of Srijan in both banks so that the cheques issued by the D.D.C. are not dishonoured.

Learned counsel for the petitioner submits that petitioner is not named in the F.I.R. and his name transpired during the course of investigation in the charge-sheet. It is further submitted that petitioner in between 2010-13 was posted as Branch Manager, Indian Bank, Bhagalpur Branch and his name has come based on suspicion on the allegation that he has assisted others in filing challan. The learned counsel further submits that from perusal of page '21' of the F.I.R. it would manifest that it clearly alleges that whatever amount was diverted from the account of D.D.C. was credited in the account of D.D.C. hence there is no loss to the state exchequer. Further, during the course of investigation from the petitioner, no ill-gotten money has been recovered. Learned counsel for the petitioner submits that it does not stand to reason that though the scam surfaced in the year 2018 and had commenced from the year 2004 but in these 14 years it never came to the notice of the authority nor it came to the notice of the bank despite the accounts of the bank being audited every year. Learned counsel further submits that it absolutely defies all logic, wisdom and reasonable administrative behaviour that scam of such magnitude would not come in the audit of the bank and the authorities like the D.M., D.D.C. and others would remain oblivious of scam of such a magnitude for a period of 14 years.

Learned counsel for the petitioner submits that an aspect of investigation which has not been touched by the C.B.I. is that the auditors who used to audit have not been questioned, either the audit report was such from which it transpired that there was no scam or the audit report was manipulated in such a way so that the scam does not surface. The learned counsel submits that if the auditors would have been in the net of the

C.B.I. perhaps the real facts would have come to the fore. Learned counsel further submits that the C.B.I. has targeted only the officers of the bank and some State Government officials.

Learned counsel further submits that co-accused have been granted bail which is evident from pleading made from para '24' to '26' of this bail application. The petitioner has a better case than some of the accused, particularly like Pankaj Jha who has been granted bail by order dated 17.07.2020 in Cr. Appeal No. 484 of 2020 arising out of SLP (Cr.) No. 1530 of 2020 by the Hon'ble Supreme Court considering his period of incarceration. Further, Jai Shree Thakur was granted bail by order dated 08.09.2020 in Cr. Misc. No. 21698 of 2020 and Pradyut Kumar Biswas @ P.K. Biswas @ Biswas by order dated 13.08.2021 in Cr. Misc. No. 8635 of 2021 and Amrendra Kumar Yadav vide order dated 26.08.2021 in Cr. Misc. No. 24846 of 2021 have been granted bail.

Learned counsel appearing on behalf of the C.B.I. opposes the prayer for bail of the petitioner and submits that during the course of investigation it has come that this petitioner was pressurising his subordinates to favour Manorama Devi (now deceased) who was a very celebrated client of the bank. Further, that a flat was also purchased in name of the wife of this petitioner at Ghaziabad and during the course of investigation and material collected it establishes the role of accused as a conspirator in the scam.

Considering the fact that the petitioner is in custody since 31.07.2019, charge-sheet has been submitted in the case and the co-accused have been granted bail, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, CBI-II, Patna in connection with Special Case No. 4 of 2020 arising out of RC07(A)/2018, CBI/ACU-V/AC-II subject to the condition as laid down under Section 437 (3) Cr.P.C. with a condition that in the event if the petitioner does not appear in the trial on two consecutive dates without any plausible explanation the learned court below will be at liberty to cancel his bail bonds and the petitioner will not indulge in tampering of any evidence.

(Satyavrat Verma, J)

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