IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20041 of 2021

Arising Out of PS. Case No.-16 Year-2012 Thana- C.B.I CASE District- Patna

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SUNIL KUMAR JAISWAL, Son of Late Vishwanath Pd. Jaiswal, Resident of Mohalla Umesh Cinema Road, Infront of Saroj Kirana Store, Town Hajipur, P.S. Sadar, District Vaishali.

... ... Petitioner

Versus

The Central Bureau of Investigation through the Superintendent of Police, CBI/ACB, Patna.

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Ashok Kumar Choudhary, Sr. Adv.
		Mr. Akshansh Ankit, Advocate
For the CBI	:	Mr. Bipin Kumar Sinha, SC, CBI
For PNB	:	Mr. Suresh Pd. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

CAV ORDER

4 03-11-2021 Heard Mr. Ashok Kumar Choudhary, learned Senior Counsel for the petitioner assisted by Mr. Akshansh Ankit, Advocate, Mr. Bipin Kumar Sinha, learned Standing Counsel for the CBI as well as Mr. Suresh Pd. Singh, learned counsel appearing on behalf of Punjab National Bank.

The petitioner seeks bail in CBI R.C. Case No.12A/2012 (RC0232012A0016) [giving rise to Special Case No.09/2012], registered for the offences punishable under Sections 120-B, 420, 409, 467, 468 and 471 of the Indian Penal Code as well as under Sections 13(2), r/w 13(1)(c)&(d) of the Prevention of Corruption Act, 1988.

The prosecution case, in brief, is that the informant, Chief Manager, Punjab National Bank, Boring Road Branch, Patna submitted a written complaint before the Superintendent of Police, Central Bureau of Investigation (CBI) alleging therein that M/s Vaishali Trading Pvt. Ltd. approached the bank for various credit facilities in 2007. The petitioner and co-accused Smt. Neeta Keskar are directors of the said company while Rajesh Kumar stood as personal guarantee. It is said that Rajesh Kumar later joined the company as director when Smt. Neeta Keskar retired from service. The bank after examining the request sanctioned a term loan of Rs.160 lacs and cash credit facility of Rs.140 lacs. It is alleged that the directors of the company, in furtherance of conspiracy to cheat the bank, submitted certain property as security for the loan. It was found that the title deed, given as security to the bank, was found forged and was never registered in the office of Sub-Registrar, Hajipur. It is alleged that the petitioner and other directors misappropriated the loan amount.

Mr. Ashok Kumar Choudhary, learned Senior Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The investigation has already been completed and Charge Sheet No.25 of 2013, dated 11.12.2013 has been submitted. It is further submitted that the petitioner completely denied his complicity with the alleged accusations. During investigation, it came to light that the petitioner was merely a staff of the co-accused and the main conspirator Arvind Kumar Choudhary. The said Arvind Kumar Choudhary was earlier Director of M/s Vaishali Trading Pvt. Ltd. and resigned in the month of October, 2007. The investigation further reveals that as per criminal design of said Arvind Kumar Choudhary, the loan in question was applied. The bank officials, who were in connivance with the said Arvind Kumar Choudhary, sanctioned the loan without completing mandatory formalities. Learned Senior Counsel for the petitioner submits that the petitioner being unaware of such connivance and conspiracy merely signed on some forms and papers at the instructions of his employers Arvind Kumar Choudhary and Ashok Choudhary. The petitioner was told that the forms and papers relates to Employees Provident Fund (EPF) Scheme. It is also submitted by learned Senior Counsel for the petitioner that the petitioner does not understand, read or write English and, as such, he could not understand the contents of the forms, documents and papers. It is submitted that the petitioner has played no role in the alleged criminal conspiracy and, as such, he is entitled to be enlarged on bail. The petitioner is 58 years old and is suffering from chronic kidney disease. The petitioner was referred to Nephrology Department, PMCH, Patna from Central Jail, Beur on 08.08.2020 when his condition worsened and his blood pressure started falling. The doctors at PMCH examined the petitioner on 08.08.2020 and he was advised to undergo Haemo-Dialysis (Annexure-2 of the bail petition). Mr. Choudhary, learned Senior Counsel for the petitioner submits that the petitioner is facing life threatening disease and is not able to get proper treatment from jail as Haemo-Dialysis (HD) is a regular treatment and he has been advised to undergo Haemo-Dialysis thrice in a week. The petitioner fears that he might get infected by Corona during this pandemic if proper treatment is not provided to him. It is further submitted that the trial is not likely to be concluded in near future. The petitioner is in custody since 27.02.2020 and he has got no criminal antecedent as stated in paragraph 3 of the bail petition, therefore, the petitioner deserves bail.

The prayer for bail of the petitioner is opposed by learned counsel for the CBI as also learned counsel for Punjab National Bank. Learned counsel for the CBI referring to the final report, which is enclosed with the bail petition, submitted that it was the petitioner who entered into conspiracy with the other accused persons with the common object to cheat Punjab National Bank by applying and obtaining a bank loan on the basis of fake and forged documents. It is submitted that the investigation reveals that the petitioner being a business associate of co-accused Arbind Kumar Choudhary had stood as guarantor who furnished personal guarantee and mortgaged the property mentioned in the FIR. The bank after examining the request of the company for credit facilities made by the directors of the company, sanctioned a term loan of Rs.160 lacs and cash credit facility of Rs.140 lacs. The borrower company through the first two directors availed the credit facilities. It is submitted that when the account of the borrower company became NPA, bank started action under SARFAESI Act, 2002 for taking possession of the secured assets. The accused persons resisted the action of the bank by filing various proceedings but ultimately did not succeed. During the course of taking possession of the securities, it has transpired that the title deed was never registered in the office of Sub-Registrar, Hajipur. Learned counsel for the CBI further submits that prayer for anticipatory bail of the petitioner was rejected in the year 2013 by this Court and he was absconding till he was arrested on 06.03.2020. It is lastly submitted that prayer for bail of a similarly situated co-accused, Rajesh Kumar was also rejected by this Court vide order dated 06.04.2021, passed in Cr. Misc. No.31962 of 2020.

Considering the fact that the petitioner was absconding from 2013 knowing the fact that his prayer for anticipatory bail has been rejected, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is rejected.

The Superintendent of Central Jail, Beur is directed to take all necessary steps in taking care of the petitioner because the petitioner is suffering from a chronic disease.

(Anjani Kumar Sharan, J.)

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