IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35068 of 2021

Arising Out of PS. Case No.-7 Year-2018 Thana- C.B.I CASE District- Patna

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Barun Kumar S/O Sri Jagdish Prasad Yadav Resident of Ward No. 9, Lower Champanagar Road, Sahebganj, P.S.-Kotwali, District-Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau of Investigation (CBI), New Delihi.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Uday Pratap Singh
For the Opposite Party/s : Mr.Bipin Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3. 04-10-2021 Heard learned counsel for the petitioner and learned counsel for the C.B.I.

The petitioner seeks bail in RC 7(A)/2018, giving rise to Spl. Case No. 04/2020, arising out of Kotwali (Bhagalpur) P.S. Case No. 545 of 2017, registered for the offence under Sections 409, 419, 420, 467, 468, 471, 120B & 34 of the Indian Penal Code.

The F.I.R. relates to illegal transfer and misuse of funds from the government bank accounts of Bhagalpur and Banka in fraudulent and conspiratorial manner.

This case is one of the cases of Srijan Scam at Bhagalpur, instituted against the then and present Branch Manager of Bank of Baroda, Indian Bank, Bhagalpur and office bearers of Srijan Mahila Vikas Sahyog Samiti Ltd. (for short "SMVSSL"). The case pertains to misappropriation of funds of

D.D.C., Bhagalpur and it is alleged that 36 POs/DDs issued in favour of D.D.C. Bhagalpur were diverted in the account of Srijan in both Banks by the Bank officials. The amounts withdrawn from DDC accounts in both Banks were deposited/transferred in the account of Srijan on various dates.

It is submitted on behalf of petitioner that petitioner is not named in the F.I.R. The name of the petitioner has transpired during course of investigation and his name has been figured in the chargesheet alongwith 26 other co-accused, submitted by the C.B.I., vide Chargesheet No. 13 / 2019 dated 30.12.2019.

It is further submitted that only allegation against this petitioner is that Bankers Cheque No. 452718 dated 11.03.2014 of Rs. 48,10,400/- was checked by the petitioner during the course of its credit and as such, he is checker of the said cheque and the investigating officer further mentioned in paragraph nos. 16.3.1.3, 16.3.1.4 & 16.3.2.2 of the charge-sheet that petitioner as Joint Manager has pressurized newly recruited staff of the bank namely Priti Kumari Soni to credit the amount in the account of Srijan only on the basis of voucher without any pay orders (POs) and on this oral version of said Priti Kumari Soni, petitioner has been made accused in the present case.

It is further submitted that petitioner is in custody in

Srijan case since 17.09.2018 and he has been remanded in the instant case on 23.01.2020. Chargesheet has already been submitted and as such, custodial interrogation is no more required. It is submitted that some of the similarly situated co-accused persons have already been granted bail by this Court.

Learned counsel for the C.B.I. vehemently opposed the bail petition and submitted that though, petitioner is not named in the FIR, but his name has surfaced during course of investigation and there is sufficient material regarding involvement of the petitioner in the said occurrence at Para No. 16.3.1(2)(3)(4), 16.3.2(2), 16.3.3, 16.3.5, 16.3.5.1, 16.3.5.2 and 16.5(9) in the charge-sheet. At Para No. 16.5(9) Page No. 77 of the charge-sheet, it is alleged that petitioner was the Joint Manager in Bank of Baroda from July, 2013 to August, 2015. He was also operation head of the branch. While working as official of Bank of Baroda, Bhagalpur misused his official position and caused a huge loss to the government exchequer. He instructed and pressurized newly recruited staff in Bank, to credit the government proceeds to the account of M/s SMVSSL at the eleventh hour when other cheques and DDs. were to be taken to clearing house. This is not an isolated case and this petitioner had very much knowledge that the money was being diverted to the account of M/s SMVSSL fraudulently.

It is further submitted that prosecution sanction has already been granted by the competent authority. Petitioner is accused in as many as seven cases, which fact has been stated in paragraph – 3 of the petition.

Considering the rival submissions of the parties and the materials available on record as well as period of custody of petitioner, similarly situated co-accused persons have already been granted bail and the fact that investigation has already been completed and custodial interrogation is no more required, the bail petition of petitioner is allowed.

Let the above named petitioner be released on bail on furnishing bail-bond of **Rs. 10,000/-** (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I. – II, Patna in connection with RC 7(A)/2018, giving rise to Spl. Case No. 04/2020, arising out of Kotwali (Bhagalpur) P.S. Case No. 545 of 2017, on the following conditions:

> "(1) Petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court below and shall remain physically present, as directed by the court below, and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the court below.

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

(Prabhat Kumar Singh, J.)

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