IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33896 of 2021

Arising Out of PS. Case No.-15 Year-2017 Thana- C.B.I CASE District- Bhagalpur

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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 C.B.I Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh 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

2 01-12-2021 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Special Case No. 13 of 2020 arising out of 15(A)/2017 instituted for the offences under Sections 34, 120(B), 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 the petitioner is in custody since 31.07.2019, prior to Srijan Scam, he was a person with clean antecedent but after the scam surfaced he came to be implicated in four cases including the present one.

Learned counsel for the petitioner submits that from perusal charge-sheet it would manifest that against this petitioner the allegations have been alleged which is recorded at para 16.21 and 16.22 at page 147 of the brief which is as follows:-

> "16.21. The said BCCBL Letter No. 448 dated 20.06.2012 was received by Sh. Deo Shanker Mishra, the then Chief Manager/Branch Head at Indian Bank, Bhagalpur and processed at Indian Bank, Bhagalpur Branch by Sh. Ajay Kumar Pandey, the then Clerk. However, Sh Ajay Kumar Pandey, fraudulently got prepared a Pay-in-slip dated 21.06.2012 from Sh Mithlesh Kumar, Ad-hoc staff of Indian Bank, Bhagalpur Branch, for crediting the proceeds of the said cheque into the account of SMVSSL and he by misusing his official position entered the said cheque for crediting the proceeds of the same in the account of SMVSSL. As part of the criminal conspiracy, Sh Subrat Das, the then Assistant Manager verified the transaction and credited the proceeds in the account of wrong beneficiary/SMVSSL.
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> 16.22 Investigation has revealed that the letter containing instruction of BCCBL was received by Sh Deo Shanker Mishra, the then Branch Manager/Chief Manager. Sh Deo Shanker Mishra was also duty bound to make alert to the maker and checker of the above said

> two transactions of cheques No.814427 for Rs.3.00 Crore and Cheque No.814439 for Rs.8.00 Crore to Sh Pradyut Kumar Biswas, the then Assistant Branch Manager, Sh Ajay Kumar Pandey, the then Clerk, and Sh Subrat Das, the then Assistant Manger, about the instructions given by the BCCBL, especially when the two letters alongwith two high value cheques with proper instruction received by him while functioning as Branch Manager, Indian Bank, Bhagalpur. The said instance of fraudulent diversion of such high value cheque establishes that Sh Deo Shanker Mishra in criminal conspiracy with Sh Pradyut Kumar Biswas, Sh Ajay Kumar Pandey and Sh Subrat Das and by misusing his official position fraudulently diverted the proceeds of Rs.3.00 Crore and Rs.8.00 crore into the account of wrong beneficiary/SMVSSL. Sh Pradyut Kumar Biswas, Sh Ajay Kumar Pandey and Sh Subrat Das have already been been charge-sheeted for the said instances."

Learned counsel for the petitioner submits that petitioner is not named in the F.I.R. and he was posted as Branch Manager, Indian Bank at Bhagalpur Branch from 2010 to 2013. Further, processing of cheques are duty of Clearing Section of the Bank and this petitioner is neither maker or chequer of any transaction as alleged. Learned counsel further submits that the scam surfaced in the year 2018 but had commenced from the year 2004 and it does not stand to reason that when account of the banks are audited every year, why this scam could not be pointed out by the auditors. Learned counsel submits that perhaps the C.B.I. has missed in it's investigation, the role of the auditors and the officers of the bank have been implicated in the present case.

Learned counsel further submits that co-accused have been granted bail which is evident from pleading made from paragraph '38', '39', '40' and '41' 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 standing counsel appearing on behalf of the C.B.I. opposes the prayer for regular bail of the petitioner but does not dispute that this petitioner has been granted bail in Cr.

Misc. No. 33112 of 2021.

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, C.B.I.-II, Patna in connection with Special Case No. 13 of 2020 arising out of 15(A)/2017 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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