

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27106 of 2020

Arising Out of PS. Case No.-15 Year-2018 Thana- C.B.I CASE District- Patna

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AJAY KUMAR PANDEY, S/o Sri Rameshwar Pandey, Resident of Mohalla-Masakchak, Sarat Chand Path, P.S.-Adampur, District-Bhagalpur. Permanent Resident of Village-Meharपुर, P.O-Mathurapur, P.S-Pirapainti, District-Bhagalpur.

... .. Petitioner

Versus

The Central Bureau of Investigation (C. B. I.) Patna.

... .. 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

10 01-11-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.Bipin Kumar Sinha, learned Standing Counsel for the CBI.

Petitioner in the present case is seeking regular bail in connection with RC 15(S)/18 giving rise to Spl. Case No. 01 of 2020 arising out of Kotwali (Bhagalpur) P.S. Case No. 658 of 2017 registered for the offence punishable under Sections 409, 419, 420, 467, 468, 471, 120B & 34 of the Indian Penal Code. He is in custody since 17.08.2017. The petitioner has got clean antecedent, however, he has been made accused in seven cases after coming into light of the present Srijan Scam.



Learned counsel for the petitioner submits that this is one of those infamous Srijan Scam cases in which this petitioner has been made accused in course of investigation. This petitioner was working as a Clerk in the Indian Bank at Bhagalpur. It is alleged that he had processed a voucher as maker of the cheques bearing no. 564858 and 564875 both dated 02.08.2010 amounting of Rs. 19,99,090 and 33,49,590 respectively.

Learned counsel submits that as a Clerk the petitioner had merely discharged his duties in the Bank. According to him, the amount of the cheques were already deposited in the account of the depositor who had submitted the cheques before the Bank.

Learned counsel further submits that the petitioner is not the beneficiary of the amount and in course of investigation no material has come showing that the petitioner was having any prior knowledge of any kind of illegalities in the account of SMVSSL. He has fully cooperated in course of investigation.

It is submitted that the petitioner was behind the bar since 12.08.2017 in connection with the another case of Srijan Scam in which he was brought within the purview of investigation.



Learned counsel points out that so far as this case is concerned during the investigation of this case the CBI did not seek custody of this petitioner and no remand was prayed for before filing of the chargesheet. It is only at a belated stage on 12.02.2020 remand of the petitioner was sought in this case and he has been accordingly remanded.

Learned counsel points out that this petitioner has been made accused in altogether seven cases of Srijan Scam which are stated in paragraph '3' of the application. So far as the present case is concerned, this is the 8th case but the allegations are almost similar in nature. Petitioner has brought on record the orders passed by learned coordinate Bench of this Court in Cr. Misc. No. 25990 of 2020 and Cr. Misc. No. 33285 of 2020 to submit that in similar allegations the two learned coordinate Benches of this Court have been pleased to grant privilege of bail to the petitioner.

On both the occasions, the learned coordinate Benches have noticed the period of custody of the petitioner and the fact that the charges is yet not framed in those cases.

It is submitted that in the present case also till date Police papers have not been supplied, therefore, question of framing of charge does not arise.



Learned counsel has also placed on record a copy of the order dated 17th July, 2020 passed by Hon'ble Supreme Court in the case of Pankaj Kumar Jha, the then Managing Director of the Bhagalpur Central Cooperative Bank. By this order the said accused Pankaj Kumar Jha has been granted privilege of bail in Special Case No. 37 of 2017 as the Hon'ble Apex Court was informed by learned counsel for the respondent-State that investigation is complete and further custody of the accused-appellant may not be necessary.

Learned counsel submits that similar is the position in the present case the petitioner has in fact in custody since 17.08.2017, he was not required in course of investigation of this case and presently there is no chance of commencement of trial in the present case.

Reference has also been made to several orders passed by this Court and the learned coordinate Benches of this Court by which the accused of Srijan Scam in similar circumstance have been granted bail.

Mr.Bipin Kumar Sinha, learned Standing Counsel for the CBI does not dispute the factual position that in this case the petitioner was in custody since 17.08.2017 and that in course of investigation of this case his custodial interrogation was not



required and further the CBI never demanded his remand in this case prior to 12.02.2020. It is also not disputed that at this stage even Police papers have not been supplied to the accused and, therefore, the commencement of trial is not going to happen in near future.

Mr.Bipin Kumar Sinha, learned Standing Counsel for the CBI at last laments the present circumstance in which despite lapse of several years the Police papers have not been supplied and the charge has not been framed.

Learned counsel for the CBI does not dispute that the several accused of Srijan Scam, have been granted bail taking note of period of their custody and that their further participation in course of investigation is not required.

Having regard to the submissions noted hereinabove and the materials discussed by this Court and further the uncontroverted fact that in this case the petitioner has been though taken on remand on 20.02.2020 but he is in custody since 17.08.2017 and he was never required as also that the trial is not likely to be concluded in near future, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of



learned Special Judge, CBI-II, Patna in connection with Spl. Case No. 01 of 2020-cum- RC 15(S) of 2018 arising out of Kotwali (Bhagalpur) P.S. Case No. 658 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.

CBI will be at liberty to take steps for cancellation of bail of the petitioner if the petitioner is found involved in tampering with evidence or interfering with the course of trial.

(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'.

