IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31461 of 2020

Arising Out of PS. Case No.-17 Year-2017 Thana- C.B.I CASE District- Patna

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AMRENDRA PRASAD SAHOO Son of Sri Late Kailsh Chandra Sahoo, Resident of Plot No. 980, Phase-II, Bhimatangi Hosuing Board Colony, P.S.- Air Field, Dist.- Bhuneshwar, Orissa.

... ... Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION (C.B.I.), PATNA Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Uday Pratap Singh, Adv.
For the Opposite Party/s : Mr. Bipin Kumar Sinha, SC, CBI

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

7 27-01-2021 Heard Mr. Uday Pratap Singh, learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned counsel for the C.B.I.

2. Petitioner seeks bail in RC Case No.17/A of 2017 corresponding to Special Case No.04 of 2018 arising out of Kotwali (Tilkamanjhi, Bhagalpur) P.S. Case No.513 of 2017 for the offences allegedly committed by the petitioner under Sections 120(B), 409, 420, 467, 468, 471, 477(A) of the IPC and under Sections 13 (2) read with Section 13(1)(d) of the Prevention of Corruption Act.

3. The informant (In-charge Additional Chief Executive Officer, District Board, Bhagalpur) lodged a written report before the Officer-in-charge, Tilkamanjhi P.S. on the

basis of a report of the team constituted by D.D.C, Bhagalpur as contained in memo no.5359 dated 07.08.2017, who enquired the ledger book, bank account passbook, cheque issuance register of the account opened to run different schemes under the District Board, Bhagalpur and found illegal withdrawal and transfer of government funds meant for execution of different schemes under Mukhya Mantri Gramoudya Yojna, 13th Finance Commission and BRGF (General). The scam relates to thousands of crores and government money was diverted without following the rules and regulations by the government officials and the officers of different banks to the account of Srijan Mahila Vikash Sahyog Samiti Ltd. (an N.G.O.). In course of investigation, the name of the petitioner surfaced and it was found that the DDC, Bhagalpur issued a PL Cheque No.A236878 dated 16.03.2013 for Rs.6 crores 31 lacs for issuance of banker's cheque in favour of Branch Manager, Bank of Baroda, Bhagalpur. The aforesaid bills and P.L. cheque and bank application were forwarded by the DDC-cum-CEO to the Treasury Officer, Bhagalpur for passing of bills. After passing of bills, the application and P.L. cheque were presented at SBI, Main Branch, Bhagalpur for issuance of banker's cheque in favour of Branch Manager, Bank of Baroda, Bhagalpur. One

Rakesh Kumar collected the banker's cheque and he made entry of the same in cash book of BRGF General Scheme. The investigation further reveals that one Sant Kumar Sinha, the then Clerk of Bank of Baroda in collusion with Smt. Manorma Devi, Secretary of Srijan Mahila Vikash Sahyog Samiti Ltd. including other bank officials prepared pay in slip. The petitioner being a Senior Manager of Bank of Baroda without following any rules and regulations instead of depositing the aforesaid amount in the account of DDC, Bhagalpur ordered to deposit the same amount in the account of Srijan Mahila Vikash Sahyog Samiti Ltd. and thereby the petitioner in utter violation of rule in collusion with other accused persons transferred a huge amount i.e. Rs.6 crores 31 lacs government money to the account of an N.G.O.

4. Mr. Uday Pratap Singh, learned counsel for the petitioner submits that the petitioner as usual in discharging his official function passed as many as 75 cheques on that date but none of the cheque was found illegally passed save and except the present one. It is further submitted that Sri Sant Kumar Sinha, who prepared pay-in-slip and Smt. Ridhi Mishra, who firstly checked the said cheque but Smt. Ridhi Mishra has not been made accused in the case. It was merely a formality and

the petitioner cleared the cheque. It is further submitted that similarly situated other accused persons, namely, Sri Ram Krishna Jha and Subrat Das have been granted bail by different benches of this Court. One Pankaj Kumar Jha has also been granted bail by Hon'ble Supreme Court. It is further submitted that Prabhat Kumar Sinha, the DDC, Bhagalpur moved before the Hon'ble Supreme Court for grant of anticipatory bail and the Hon'ble Supreme Court has passed interim order for not taking any coercive step against him. The petitioner is in jail since 22.02.2020. It is also submitted that Subrat Das was granted bail only after remaining in custody for 14 months. The petitioner has remained in jail for about a year.

5. Mr. Bipin Kumar Sinha, learned counsel for the C.B.I. submits that the petitioner being a Senior Manager of the Bank of Baroda has cleared a cheque of Rs.6 crores 31 lacs. There is no banking rule that if banker's cheque is issued in the name of a particular person, the Bank Manager can order for deposit of the said amount in the account of any other or a third person. The Bank Manager has got no authority to order for depositing the amount in the account of any other person instead of the account of payee and this fact itself shows that the petitioner in collusion with Manorma Devi siphoned out Rs.6

crores 31 lacs of the government fund causing non-execution of different schemes. The petitioner and other bank officials in collusion with government officials in the same way misappropriated more than Rs.1000/- crores. It is further submitted that the petitioner is in jail since 22.02.2020. The economic offence is very serious and in such a case there cannot be a rule that the accused may be enlarged on bail after submission of charge sheet. There are certain other conditions on which the accused can be granted bail. It is further submitted that learned counsel for the petitioner has not been able to show any banking rule that banker's cheque instead of depositing in the account of payee is diverted to the account of a third person and this is a clear instance of defalcation and misappropriation of the entire amount in collusion with a third person. Therefore, the petitioner does not deserve bail.

6. Having considered the submissions and on perusal of the record as well as the rules submitted by learned counsel for the petitioner, I find that the allegations against the petitioner are that he being a Senior Manager of the bank directed to deposit the banker's cheque in the account of a third person and not in the account of the payee and thereby the petitioner acted in violations of the rules and regulations. The petitioner is a

party in defalcation of a huge amount i.e. Rs.6 crores 31 lacs. There is sufficient material against the petitioner.

7. Taking into consideration the facts aforesaid and the seriousness of the offence, I am not inclined to enlarge the petitioner on bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J)

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