IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33285 of 2020

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

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AJAY KUMAR PANDEY S/o Rameshwar Pandey, Resident of Village-Masakchak Sarat Chand Path, Police Station-Aadampur, District-Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau of Investigation through its Superintendent of Police, Patna. Patna.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Sanjeev Ranjan, 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

5 20-01-2021 Heard both sides.

2. Petitioner seeks bail in Special Case No.04 of 2018 (R/C-17/A/17) arising out of Bhagalpur Kotwali P.S. (Tilkamanjhi) Case No.513 of 2017 registered under Sections 409, 419, 420, 467, 468, 471, 120(B) and 34 of the IPC.

3. The informant lodged the case with regard to fraudulent withdrawal of government fund from the government accounts and transferred to Srijan Mahila Vikas Sahyog Samiti. The gist of allegation against the petitioner is that the petitioner was a Clerk in the Indian Bank, Bhagalpur Branch and Rs.8 crores 79 lacs and odd was allocated to D.D.C., Bhagalpur in 13th Finance Commission Yojna for allotment and completion of different schemes of Zila Parishad, Panchayat Samities and

Gram Panchayat. Mr. Prabhat Kumar Sinha, the then D.D.C., Bhagalpur after having received such allotment, issued cheque for depositing the entire amount in the account of Branch Manager, Indian Bank. The S.B.I., Bhagalpur thereupon issued a banker's cheque in the name of Branch Manager, Indian Bank but since there was no individual account standing in the name of Branch Manager in the Indian Bank, the entire amount was deposited in the Parking Account of the Branch Manager, Indian Bank. Thereafter the name of the petitioner Ajay Kumar Pandey surfaced. After sometime, the petitioner is alleged to have prepared a voucher for transfer of the entire amount of Rs.8 crores 79 lacs and odd from the Parking Account of Branch Manager, Indian Bank to the account of Srijan Mahila Vikas Sahyog Samiti. The voucher was duly prepared by the petitioner and the same was duly approved by Sri Pravin Kumar, the then Assistant Manager and Sri D.S. Mishra, the then Branch Manager of Indian Bank.

4. Learned counsel for the petitioner submits that the gist of the allegation against the petitioner is that the petitioner prepared voucher for transfer of Rs.8 crores 79 lacs and odd from the Parking Account of Branch Manager, Indian Bank to the account of Srijan Mahila Vikas Sahyog Samiti. The voucher

was duly approved by the then Assistant Manager, Sri Pravin Kumar and Sri D.S. Mishra, the then Branch Manager of the Indian Bank. The petitioner is made accused in altogether seven cases registered by the C.B.I. out of which the petitioner has been enlarged on bail in three cases which are R/C Case No.15A of 2017, R/C Case No.13A of 2017 and R/C Case No.11A of 2017. It is submitted that Pankaj Kumar Jha, one of the accused in R/C Case No.15A of 2017 moved before the Hon’ble Supreme Court and the Hon’ble Supreme Court in Special Leave to Appeal (Crl.) No.1530 of 2020 enlarged Pankaj Kumar Jha on bail mainly on the ground that the charge sheet has already been submitted and there is no chance of tampering with the evidence. The petitioner is in custody since 08.05.2018. The petitioner has already remained in jail for about two years and nine months. Hence, the petitioner may be enlarged on bail.

5. Mr. Bipin Kumar Sinha, learned counsel for the C.B.I, on the other hand, submits that besides the facts that it was the petitioner, who had prepared voucher for transfer of Rs.8 cores 79 lacs and odd from the Parking Account of the Branch Manager, Indian Bank to the account of Srijan Mahila Vikas Sahyog Samiti (an N.G.O.), it has also come during course of investigation that the petitioner is the chief conspirator

of the entire scam. It is found that the said voucher was prepared in the handwriting of the petitioner. Of course, this case relates only with regard to transfer of Rs.8 crores 79 lacs and odd but the scam is of more than Rs.1000/- crores. The petitioner is accused in altogether seven cases and it has transpired during course of investigation that the petitioner not only prepared the voucher for transferring money from the Parking Account of Branch Manager, Indian Bank to the account of Srijan Mahila Vikas Sahyog Samiti but when the Assistant Manager and other official refused to pass such voucher, the petitioner also persuaded them to pass the voucher. It is further submitted that this Court vide order dated 04.01.2021 in Cr.Misc.No.25810 of 2020 rejected the prayer for bail of the petitioner and the present case also relates with regard to similar scam. Therefore, the petitioner does not deserve bail.

6. Perused the record and after having considered the submissions of both sides, it appears that the petitioner was a Clerk in the Indian Bank. Rs.8 crores 79 lacs and odd was allocated in the name of D.D.C., Bhagalpur for allotment and completion of different schemes of Zila Parishad, Panchayat Samities and Gram Panchayat. The D.D.C., Bhagalpur after having received such allotment from the concerned Department

of Government of Bihar issued a cheque for transfer of the amount in his own account existing in the Indian Bank but the S.B.I., Bhagalpur issued a banker's cheque in the name of Branch Manager of the Indian Bank. Since there was no individual account standing in the name of Branch Manager, Indian Bank, the cheque was deposited in the Parking Account of Branch Manager, Indian Bank. Immediately thereafter the petitioner is alleged to have prepared the voucher for transfer of the entire money amounting to Rs.8 crores 79 lacs and odd from the Parking Account of Branch Manager, Indian Bank to the account of Srijan Mahila Vikas Sahyog Samiti and on such, the amount was transferred to the account of Srijan Mahila Vikas Sahyog Samiti. The Secretary of the Srijan Mahila Vikas Sahyog Samiti in collusion with government officials and the bank officials is said to have misappropriated and defalcated the entire amount but the petitioner is in jail since 08.05.2018. The petitioner has already remained in jail for about two years and nine months in three other cases such as R/C Case No.15A of 2017, R/C Case No.11A of 2017 and R/C Case No.13A of 2017. The petitioner has already been enlarged on bail by different coordinate benches of this Court. The prayer for bail of the petitioner was rejected in Bhagalpur Kotwali P.S. Case No.545

of 2017 corresponding to R/C Case No.07A of 2018 but it appears that in that case the petitioner was in custody since 17.02.2020. The petitioner remained in custody in that case only for less than a year. The Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.1530 of 2020 has been pleased to grant bail to Pankaj Kumar Jha, one of the accused in similar case, on the ground that since the charge sheet has been submitted and the petitioner remained in jail for about three years.

7. Taking into consideration the facts that since the petitioner has remained in jail for about two years and nine months, the petitioner named above is directed to be released on bail on and after **15.03.2021** on furnishing bail bond of Rs.10,000/-(rupees ten thousand) with two sureties of like amount each to the satisfaction of learned Special Judge II, Central Bureau of Investigation, Patna in connection with Special Case No.04 of 2018 (R/C-17/A/17) arising out of Bhagalpur Kotwali P.S. (Tilkamanjhi) Case No.513 of 2017.

(Prabhat Kumar Jha, J)

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