

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL MISCELLANEOUS No.3520 of 2021**

Arising Out of PS. Case No.-16 Year-2017 Thana- C.B.I CASE District- Patna

MD. SARFARAJ UDDIN @ MD. SARFRAZUDDIN @ MD. SARFARAZ  
UDDIN Son of Md. Nejamuddin @ Md. Neezamuddin Resident of Mohalla -  
Vikramshila Nagar, P.S.- Khalgaon, Distt. - Bhagalpur.

... .. Petitioner

Versus

C.B.I., THROUGH THE SUPERINTENDENT OF POLICE, CBI/ACU-  
V/AC-II, NEW DELHI. New Delhi.

... .. Opposite Party

**Appearance :**

For the Petitioner/s : Mr.Akshansh Ankit, Advocate  
For the CBI : Mr.Bipin Kumar Sinha, Standing Counsel

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
ORAL ORDER**

5      29-06-2021                      Heard learned counsel for the petitioner and Mr. Bipin  
Kumar Sinha, learned Standing Counsel for the Central Bureau  
Investigation (CBI).

The petitioner in the present case is seeking regular bail in  
connection with CBI R.C. Case No. 16(A)/2017 (given rise to SPL  
Case No. 08/2017) registered for the offences punishable under  
Sections 34, 120B, 409, 420, 467, 468 and 471 of the Indian Penal  
Code and Sections 13(2) r/w 13(1)(c)(d) of the Prevention of  
Corruption Act, 1988.

Mr. Ashok Kumar Chaudhary, learned counsel for the  
petitioner submits that the case of the petitioner stands on similar  
footing with that of other co-accused namely Ram Krishna Jha who  
has been granted bail in RC Case No. 15A/2017 on the ground that  
he had remained in custody for about 33 months and the charge has



yet not been framed.

Learned counsel submits that in the present case also the petitioner has remained in custody for a period of almost three years but till date the charge has not been framed.

Learned counsel further submits that earlier the prayer for bail of the petitioner was rejected by the learned coordinate Bench of this Court vide order dated 27.11.2019 passed in Cr. Misc No. 9690 of 2019, in the concluding part of the said order the learned coordinate Bench has recorded that the trial is in progress which seems to have been recorded on the basis of wrong submission made on behalf of the CBI that the trial is in progress. The fact is that the trial has yet not begun.

Learned counsel further submits that after the said order was passed by the learned coordinate Bench of this Court, the Hon'ble Apex Court heard the case of Mr. Pankaj Kumar Jha the Managing Director of Bhagalpur Central Cooperative Bank Limited whose prayer for bail was also rejected by learned coordinate Bench of this Court. The Hon'ble Apex Court directed release of the said co-accused on bail after noticing that he was in custody for about 29 months but the charge has yet not been framed, thereafter, the learned coordinate Bench of this court as well as this Bench has followed the same path and has directed release of the co-accused in other cases of similar nature considering that they were in custody for over two years but the charge has not yet been framed and the trial is not likely



to begin. It is submitted that the case of this petitioner stands on similar footing with those who have been enlarged on bail.

Mr. Bipin Kumar Sinha, learned standing counsel for the Central Bureau of Investigation is unable to distinguish the case of this petitioner with that of those who have been granted bail in the connected case.

Considering the facts and circumstances of the case and upon noticing that the petitioner is in custody since 25.9.2018 in connection with the present case and till date the charge has not been framed and there is no chance of conclusion of trial in near future, there is no submission on behalf of the CBI that release of this petitioner is in any way likely to result in tampering with evidence or interfering with course of trial though it is submitted that in case the petitioner is found involved in tampering with evidence the CBI would be at liberty to make an application for cancellation of bail, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs. 25,000/- (Rupees Twenty Five 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 CBI R.C. Case No. 16A/2017 (given rise to Spl. Case No. 08/2017), subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) That such person shall attend in accordance with the conditions of the bond executed under this Chapter,



(b) That such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their 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.

And it is always open for CBI to make appropriate application if the petitioner is found involved in tampering with the evidence or interfering with the course of trial.

This application stands disposed of accordingly.

**(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'.

