

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.10871 of 2021**

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

RAM KRISHNA JHA @ R. K. JHA Son of Late Muninath Jha @ Late Maninath Jha Resident of Brahmin Tola, Police Station-Sabour, District-Bhagalpur.

... .. Petitioner

Versus

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
SUPERINTENDENT OF POLICE, PATNA BIHAR PATNA

... .. Opposite Party

Appearance :

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

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

5 22-06-2021 Heard Mr. Pratik Mishra, learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned Standing Counsel representing the Central Bureau of Investigation (CBI).

Earlier the matter was adjourned on the request of Mr. Sinha, learned counsel for the CBI in order to enable him to file a counter affidavit.

Today, Mr. Sinha, learned Standing Counsel submits that he has not received any instruction and wish to argue the matter on the basis of the contents of the chargesheet. Accordingly, the matter has been heard at length by this Court.

The petitioner in the present case is seeking regular bail in connection with Special Case No. 9 of 2017, RC-15(A)/17 registered for the offences punishable under Sections 120(B) read with 409, 420, 467, 468 and 471 of the Indian Penal Code and



Section 13(2) read with section 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act.

Earlier prayer for bail of the petitioner was rejected by a learned Co-ordinate Bench of this Court vide order dated 27.11.2019 passed in Cri. Misc. No. 11592 of 2019. Upon filing of the present application, when the matter was listed before the learned Co-ordinate Bench it was directed not to be treated as tied up matter and as per directions it has been listed before this Bench.

As per the prosecution story, the petitioner who was working as Assistant Manager in the Indian Bank Branch at Bhagalpur had conspired with other officials of the Bank and the Bhagalpur Central Cooperative Bank Limited to transfer the money belonging to the Bhagalpur Central Cooperative Bank to the account of one NGO known as Srijan Mahila Vikas Samiti Limited (in short 'SMVSSL'). In course of investigation of the case, the Managing Director of the Bhagalpur Central Co-operative Bank and another official of the Indian Bank, namely, Harishankar Upadhyay who was acting as Manager Accounts were also found allegedly involved in the conspiracy. Accordingly, after lodging the FIR by the local police, the cases were transferred to the Central Bureau of Investigation and the present case has been registered as RC-15(A)/17 for the offences under Section 120(B) read with Sections 409, 420, 467, 468 and 471 of the Indian Penal



Code and Section 13(2) read with Section 13(1)(c) and 13(1)(b) of the Prevention of Corruption Act.

The CBI has already submitted the chargesheet and it is not in dispute that the charges are yet to be framed in the learned trial court.

This Court while perusing the earlier order of rejection dated 27.11.2019, when noticed that at the relevant time, the learned Co-ordinate Bench was given to understand that the trial is in progress, this Court specifically called upon Mr. Bipin Kumar Sinha, learned Standing Counsel for the CBI to explain as to whether the trial has begun, Mr. Sinha admits that the trial has yet not begun.

In course of argument, learned counsel for the petitioner has mostly argued the matter on the ground of parity as it is his submission that the allegation against the petitioner is that of entering into a conspiracy with the Managing Director of the Bhagalpur Central Cooperative Bank and other officials of the Indian Bank.

Earlier when the Managing Director of the Central Cooperative Bank, namely, Mr. Pankaj Kumar Jha moved this Court for grant of bail, his prayer for bail was rejected in Cri Misc. No. 16262 of 2018. He again moved this Court for grant of bail in Cri. Misc. No. 20603 of 2019 which was rejected vide order dated



16.10.2019 passed by learned Co-ordinate Bench of this Court. Thereafter, the co-accused Pankaj Kumar Jha moved to the Hon'ble Supreme Court in Cri. Appeal No. 484 of 2020 arising out of SLP (Crl) 1530 of 2020. The Hon'ble Supreme Court having noticed that the investigation is complete and chargesheet has already been filed as also that the said petitioner is in custody for about 29 months, allowed his application for grant of bail and accordingly, Pankaj Kumar Jha has been released on bail.

Learned counsel has also pointed out that following the order of the Hon'ble Apex Court in the case of Pankaj Kumar Jha, a learned Coordinate Bench of this Court has been pleased to grant privilege of regular bail to the co-accused Harishankar Upadhyay who was Manager Accounts in the Indian Bank.

Learned counsel has referred to the order dated 17.08.2020 passed by learned Co-ordinate Bench of this Court in Cri. Misc. No. 40816 of 2019.

It is submitted that the petitioner is in custody since 15.09.2018 and has completed 33 months of custody, till date the charge has not been framed and the trial is not likely to be concluded in near future. Learned counsel submits that the petitioner deserves similar privilege as have been granted to the co-accused because the case of the petitioner is at least standing on similar footing with the co-accused Harishankar Upadhyay.



Mr. Sinha, learned counsel for the CBI has though opposed the prayer for regular bail of the petitioner citing that the chargesheet has been filed under various provisions of the Indian Penal Code including one under Section 409 IPC, however, Mr. Sinha admits at the Bar that the case of the petitioner is no different from that of the co-accused who have been granted bail as all of them have been booked from the conspiracy angle.

Having regard to the facts and circumstances of the case and upon finding that the co-accused similarly situated have been granted bail, the petitioner has already remained in jail for 33 months, the investigation is complete but the trial is not likely to be concluded in near future, there being no submission on behalf of the State that release of the petitioner is in any way likely to result in tampering with the evidence or interfering with the course of trial, though it has been submitted on behalf of the CBI that in future if the petitioner is found involved in tampering with the evidence, the CBI be given liberty to take appropriate steps, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge III cum Special Judge, CBI II, Patna, in connection with Special Case No. 9 of 2017, RC-15(A)/17, 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 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.

It is always open to the CBI to take appropriate steps if the petitioner gets involved in tampering with evidence.

The application stands allowed.

(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'.

