IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6136 of 2021

Arising Out of PS. Case No.-19 Year-2017 Thana- C.B.I CASE District- Patna

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Ram Krishna Jha @ R. K. Jha Son of Late Muninath Jha Resident of Brahmin Tola, P.S.- Sabour, District- Bhagalpur.

... ... Petitioner

Versus

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

... ... Opposite Party

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Appearance :

For the Petitioner/s : Mr.Birendra Kumar Singh,Advocate
For the Opposite Party/s : Mr.Bipin Kumar Sinha, Standing Counsel

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 28-07-2021 Heard learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned Standing Counsel for the Central Bureau of Investigation (in short 'CBI').

The petitioner in the present case is seeking regular bail in connection with Special Case No. 07 of 2019 arising out of RC-19(A)/17 registered for the offences punishable under Sections 34, 120(B), 409, 419, 420, 467, 468 and 471 of the Indian Penal Code. He has been made accused in similar kind of cases known as Srijan Scam on similar allegation in six other cases. The petitioner is in custody since 15.09.2018 though in the present case he has been brought on remand on 16.10.2019.

Learned counsel for the petitioner submits that the petitioner is a retired officer of Indian Bank. As per the allegations she processed two cheques of Rs.10,94,164/- and Rs.37,06,803/- which were to be credited in favour of Executive Engineer, District

Urban Development Agency (DUDA) Bhagalpur but were credited to the account of Srijan.

Learned counsel submits that in course of investigation, the petitioner has been implicated in this case because both the paying-slips were allegedly prepared and verified by the petitioner. In the chargesheet filed by the CBI, however, it is stated that the total amount of Rs.48,00,967/- covered under the two cheques were reverted to the account of DUDA Bhagalpur at Bank of Baroda on 28.11.2014 through transfer vouchers prepared by one Shri Sant Kumar Sinha.

Learned counsel submits that the investigation in this case is complete and a chargesheet bearing no. 9 of 2019 has been submitted on 25.09.2019 under various provisions of the Indian Penal Code and Section 13(1)(c) & (d) of Prevention of Corruption Act against the petitioner.

Learned counsel submits that during the period of investigation the petitioner was not taken on remand. He has remained in custody since 15.09.2018 and in two similar cases mentioned at serial No. 1 and 2 the petitioner has been granted bail.

Learned counsel further submits that in the present case till date the charge has not been framed. In fact finding this situation that the investigation is complete but the charge has yet not been framed in similar matter of Srijan Scam the Hon'ble Apex Court was pleased to grant privilege of bail to the co-accused Pankaj Kumar Jha who was the Managing Director of the Bhagalpur Central Cooperative Bank Limited vide order dated 17.07.2020 passed in Cri. Appeal No. 484 of 2020. Thereafter another co-accused in similar matter namely Hari Shankar Upadhyay @ Hari Shankar has been granted bail by this Court vide order dated 17.08.2020 in Cri. Misc. No. 40816 of 2019. Since then several co-accused have been granted bail. In the present case co-accused Md. Sarfrajuddin has been granted bail by this Court in Cri. Misc. No. 38967 of 2020.

Learned counsel further submits that although with the chargesheet the CBI has brought on record a copy of the order dated 04.01.2021 passed by a learned Co-ordinate Bench of this Court in Cri. Misc. No. 25810 of 2020 (Ajay Kumar Pandey Vs. Central Bureau of Investigation, CBI, Patna, Bihar), but on perusal thereof this Court may find that perhaps the learned Co-ordinate Bench of this Court was not informed of the order passed by the Hon'ble Apex Court in the case of Pankaj Kumar Jha on 17.07.2020 wherein the said accused was granted bail on consideration that the investigation against him was complete and his further incarceration was not required.

Learned counsel submits that the CBI has himself brought on record a copy of the order dated 15.10.2020 passed by another learned Co-ordinate Bench of this Court in Cri. Misc. No. 20983 of 2020 by which the co-accused Praveen Kumar in Special case No. 09 of 2017 (R/C-15/A/17) has been granted bail after noticing the order of the Hon’ble Apex Court and the various other orders of this Court.

On the other hand, Mr. Bipin Kumar Sinha, learned Standing Counsel for the CBI has opposed the prayer for bail of the petitioner. He has drawn the attention of this Court towards paragraphs ‘9’ and ‘10’ of the counter affidavit. It is submitted that this petitioner was allegedly a part of a larger conspiracy in Srijan Scam. It is admitted in paragraph ‘9.3’ that similar role of fraudulent diversion of Government funds in the bank accounts of SMVSSL was found in other cases.

Learned Standing Counsel submits that it seems that at the time of passing of the order in Cri. Misc. No. 25810 of 2020 the order passed by the Hon’ble Apex Court in the case of Pankaj Kumar Jha could not be brought to the notice of the learned Coordinate Bench. It is however, admitted at the Bar that several co-accused in similar matters of Srijan Scam have been granted bail by different Hon’ble Benches of this Court after finding that the investigation is complete but the charge has yet not been framed and the trial is not likely to take place in near future.

Learned Standing Counsel for the CBI has submitted that in any case this Court may impose one of the conditions that if the petitioner is found involved in tampering with evidence or influencing the course of trial, the CBI may approach this Court for cancellation of bail of the petitioner.

Considering the facts and circumstances of the case, the fact that the petitioner is in custody since 15.09.2018, investigation against him is complete but the trial is not likely to commence in near future, the co-accused Md. Sarfrajuddin has been granted bail in this case vide Cri. Misc. No. 38967 of 2020 and several other accused in similar cases of Srijan Scam have been granted bail as discussed hereinabove, 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, CBI II, Patna in connection with Special Case No. 07 of 2019 arising out of RC-19(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.

And further condition that in course of trial the petitioner shall cooperate by attending the same on each and every date fixed in the matter. Two consecutive defaults in putting appearance shall lead to action towards cancellation of bail of the petitioner.

In case petitioner is found involved in tampering with evidence or influencing the course of trial, the C.B.I. may take steps for cancellation of bail.

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'.