IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.165 of 2021

Arising Out of PS. Case No.-13 Year-2018 Thana- C.B.I CASE District- Patna

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SARITA JHA Wife of Sri Mithilesh Pathak R/O Chhoti Hat, Brahman Tola, Sabour, P.S. - Sabour, Dist.- Bhagalpur. Permanent Address - Village - Bharko, P.S.- Amarpur, Dist.- Banka

... ... Petitioner/s

Versus

The Central Bureau of Investigation, 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 RAJEEV RANJAN PRASAD

ORAL ORDER

7 27-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. Uday Pratap Singh, learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned Standing Counsel for the C.B.I.

Pursuant to the order dated 08.07.2021, the Central Bureau of Investigation has filed an affidavit.

Petitioner in the present case is seeking regular bail in connection with Spl. Case No.8/2020 (arising out of RC 13(S)/2018, C.B.I./A.C.B./Patna registered for the offences punishable under Sections 120B, 409 and 420 of the Indian Penal Code and Sections 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988.

Learned counsel for the petitioner submits that the matter relates to SRIJAN scam and this petitioner has been implicated in this case in several cases connected to the said scam because she happened to be the joint signatory on the cheques on behalf of the SMVSSL.

As per the prosecution story, when an inquiry team enquired into the account opened in the Bank of Baroda at Bhagalpur on 14.07.2008, they found that in between 14.07.2008 to 23.08.2017 the bank had shown the deposits in the old passbook to be Rs.23,48,78,259/- but from the recent statement taken from the bank the total deposits were shown as Rs.21,24,18,159/-.,thus, there was a difference of Rs.2,24,60,100/-. The enquiry team noticed similar differences for the period 05.09.2008 to 23.08.2017 to the extent of Rs.1,99,97,302/-. Several discrepancies were found in the account.

Learned counsel submits that this petitioner happened to be an employee (manager) of SMVSSL and through the cheques which bears the signature of this petitioner along with co-signatory late Manorma Devi who happened to be the Secretary of SMVSSL a sum of Rs.1,65,69,472/- has routed back in the account of B.D.O., Goradih. A charge-sheet has been filed in this case bearing No.7/2020 on 30.04.2020. The name of the petitioner transpires in course of investigation.

Learned counsel for the petitioner submits that in fact the petitioner has been made accused in several other cases pertaining to the SRIJAN scam, however, in some of the cases the learned coordinate Benches of this Court having noticed that the petitioner was arrested in the present SRIJAN scam on 12.08.2017 and in almost all the cases charge-sheet has been filed after 2 to 3 years showing the place of occurrence and manner of occurrence the same, has granted bail to the petitioner in Cr.Misc.No.3109/2021 and Cr.Misc.No.10295/2021, copies of the orders passed by learned coordinate Benches have been enclosed with the rejoinder filed on behalf of the petitioner. It is pointed out that the learned coordinate Benches have referred one of the orders passed by the Hon’ble Apx Court in the case of Pankaj Kumar Jha in Cr.Appeal No.484/2020 arising out of SLP(Crl.) Nos.1530/2020 in which the said petitioner was granted bail after noticing that the investigation in the matter is complete and the trial is not likely to take place in near future.

Learned counsel submits that in the present case also the petitioner was not arrested in course of investigation and the

C.B.I. did not take her on remand in the present case. She has remained in custody in connection with these cases since 12.08.2017 but till date the charge has not been framed. Several co-accused in the SRIJAN scam have been granted bail by learned coordinate Benches of this Court.

On the other hand, Mr. Bipin Kumar Sinha, learned Standing Counsel for the C.B.I. submits that the petitioner is one of the accused in the present case. The allegations as noted hereinabove have been placed before this Court with reference to the charge-sheet filed on behalf of the C.B.I. Pursuant to the last order of this Court, an affidavit has been filed on behalf of the C.B.I. in which it is admitted in paragraph ‘5’ that the petitioner has been granted bail in RC.12(A)/2018-Pat., RC.16(A)/2017-Delhi and has further it is admitted that the role of the petitioner as manager is almost similar in all cases of this branch. Thus, in terms of its affidavit, the role of the petitioner in RC.16(A) of 2017-18 is the same in which she has been granted bail. In paragraph ‘6’ of the affidavit, it is stated that the CBI had not arrested this petitioner during investigation and it was the accused who had requested the learned trial court for her remand in the present case.

Considering the facts and circumstances of the case wherein this Court has noticed from the submission of learned counsel for the petitioner and the learned Standing Counsel for the C.B.I. that the petitioner has remained in custody since 17th of August, 2017 and in some of the similar cases she has been granted bail by learned coordinate Benches of this Court after noticing that the Hon'ble Apex Court had been pleased to grant bail to one of the accused in SRIJAN scam after finding that the investigation is complete and further custody of the accused-appellant may not be necessary, the C.B.I. itself admits that in course of investigation the petitioner was never arrested nor her remand was sought and nothing has been brought by way of any material before this Court to distinguish the case of the petitioner from those cases in which she has already been granted bail, the charge has yet not been framed, thus, the trial is not likely to be concluded in near future, this Court directs that the petitioner above named be released on bail on furnishing bail bond 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 Spl. Case No.08/2020-cum-RC 13/S/2018 arising out of Kotwali (Bhagalpur) P.S. Case No.653/2017, subject to the condition 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 he is suspected, and

(c) that such person shall not directly or indirectly make any 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 her 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.

(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'.