IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6604 of 2021

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

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ARUN KUMAR Son of Late Jagdish Prasad Resident of Village - Barah Pathar, P.S. Dehri-on-Sone, District - Rohtas (Bihar).

... ... Petitioner/s

Versus

THE STATE OF BIHAR

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Sanjeev Kumar Singh, Advocate
For the CBI	:	Mr. Bipin Kumar Sinha, SC CBI
For the Opposite Party/s	:	Mr. Shailendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

7 12-07-2021 Heard learned Senior Counsel for the petitioner and learned Standing Counsel for the Central Bureau of Investigation (CBI in short) through video conferencing.

The petitioner has filed the instant application for grant of regular bail in connection with Special Case no. 8 of 2017 arising out of RC Case no. 16A/17 registered under sections 420, 409, 468, 471 and 120B of the Indian Penal Code and section 13(1)(c), 13(1)(d) and 13(2) of the Prevention of Corruption Act.

As per the prosecution case the petitioner who was the District Welfare Officer, Bhagalpur together with co-accused Mahesh Mandal, a clerk at the District Welfare Office, entered into a criminal conspiracy with other accused persons and misappropriated a sum of Rs. 6 crores from the account of District Welfare Office, Bhagalpur using forged documents. It is stated that the petitioner issued a cheque for Rs. 6 crores from the account of District Welfare Office, Bhagalpur at Punjab National Bank in favour of Jila Kalyan Padadhikari, Bhagalpur to a new account opened in the Bank of Baroda. This was for no justifiable reason. Although the cheque was in favour of Jila Kalyan Padadhikari, the same was credited in the account of Srjan Mahila Vikash Sahyog Samiti Ltd. Further allegation is to the effect that the petitioner received pecuniary benefits for his acts of dishonesty through his wife who received the amount of Rs. 1.96 crores and 1.39 crores etc.

It is submitted by learned Senior Counsel appearing for the petitioner that so far as this petitioner is concerned he is innocent and has been falsely implicated in the case. At the relevant time the petitioner was posted as District Welfare Officer and it was at his instance that the scam came to light. Even in course of investigation, it has not come that the petitioner received any monetary benefits from the said transactions. A number of co-accused have been enlarged on bail, orders of which have been brought on record by way of supplementary affidavit. Investigation in the case has concluded with submission of the charge sheet on 8.11.2017. The petitioner is in custody since 16.8.2017 and there is no progress in the trial in the learned Court below. The petitioner undertakes to co-operate in the trial and to abide by all the conditions which may be laid down by this Court for his release on bail.

The application for bail is opposed by learned Standing Counsel appearing for the CBI. Referring to and relying upon the contents of the counter affidavit filed on behalf of the CBI it is submitted that on investigation it clearly transpired that as a result of the misappropriation by the petitioner of a sum of Rs. 6 crores, he was given pecuniary benefits through his wife Ms. Indu Gupta who received a sum of Rs. 1.96 crores from the personal account of Ms. Manorma Devi. The petitioner's wife once again received a sum of Rs. 1.39 crores in her account. Yet another amount of Rs. 25 lacs was received by her in her account at ICICI Bank, Danapur, Patna. It is further submitted that he has received instructions to the effect that although police papers are ready to be given to the accused persons including the petitioner but due to the petitioner not being produced in the Court the police papers have not been given and charges have not been framed.

On a query by this Court it was submitted by learned

Senior Counsel appearing for the petitioner that the wife of the petitioner herein namely Smt. Indu Gupta is in judicial custody.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the substance of the investigation primarily being documentary in nature, the investigation in the case having concluded and charge sheet having been submitted in November 2017 itself, the trial in the case not having progressed in so far as charges have also not been framed together with the petitioner being in custody for 3 years 11 months i.e since 16.8.2017, the Court is inclined to enlarge the petitioner on bail. The petitioner is directed to be enlarged on bail in connection with Special Case no. 8 of 2017 arising out of RC Case no. 16A/17 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, CBI II, Patna subject to the conditions that :

(i) The petitioner shall cooperate in the trial and shall remain personally present in the learned Court below on each date.

(ii) The petitioner will keep the Superintendent of Police, Anti Corruption Branch, CBI, Katra informed about his whereabouts by providing him his current mobile number on which he can be approached/contacted.

(iii) In case of violation of any of the conditions the learned Court below will be at liberty to take steps for cancellation of bail bond of the petitioner and to take him in custody till conclusion of the trial.

(Partha Sarthy, J)

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