IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6240 of 2021

Arising Out of PS. Case No.-662 Year-2017 Thana- BHAGALPUR KOTWALI District- Bhagalpur

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Ram Krishna Jha @ R. K. Jha S/o Muninath Jha R/o Brahman Tola, P.S.- Sabaur, District- Bhagalpur.

... ... Petitioner

Versus

The Central Bureau of Investigation (C.B.I.), Patna.

... ... Opposite Party

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Appearance :

For the Petitioner/s	:	Mr.Uday Pratap 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 29-07-2021 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 RC-17(S)/18 giving rise to Special Case No. 10 of 2020 arising out of Kotwali (Bhagalpur) P.S. Case No. 662 of 2017 registered for the offences punishable under Sections 120(B) r/w 409, & 420 of the Indian Penal Code and Section 13(2) r/w 13(1)(c) & (d) of the Prevention of Corruption Act. He has been made accused in similar kind of cases known as Srijan Scam on similar allegation in six other cases.

Learned counsel for the petitioner submits that as per the prosecution case, in the accounts of the Block Development Officer, Kahalgaon opened in the Bank of Baroda, Bhagalpur on 12.04.2007, a sum of Rs. 7,73,59,000/- which was deposited in the said account on various dates through cheques were not shown to be credited in the said account. An inquiry into the matter revealed that the Block office had deposited a total sum of Rs. 10,73,23,072/- in the said bank and the bank also provided an interest of Rs. 93,305/- but there was an entry of only Rs. 2,93,64,072. Despite non-availability of the funds in the said account, the cheques issued by the Block Development Officer, Kahalgaon from time to time had been honoured. It was also found that on the same date on which the cheques were issued an equal amount has been transferred from the account of Srijan Mahila Vikash Sahyog Samiti Limited ('SMVSSL'), Sabaur to refrain from dishonour of the cheques. Prima-facie this was found to be a case of cheating and fraud.

An account was opened in the Indian Bank, Bhagalpur in the name of Block Development Officer, Kahalgaon and the inquiry revealed that an amount of Rs.3,24,41,700/- which was deposited in the said account through two different cheques on 25.01.2010 and 22.05.2010 were not shown to be credited. It was found that on various dates an amount of Rs.9,79,67,766.09/- has been withdrawn from the said account through cheques and other means.

This petitioner is though not named in the First Information Report, his name has transpired during course of investigation. According to the chargesheet the petitioner as a clerk of Indian Bank had filled up a deposit slip to deposit cheque no. 007912 dated 30.09.2009 of Bank of Baroda, Bhagalpur amounting to Rs.76,30,000/- issued by the DDC-Cum-Director, Director, Bhagalpur in favour of BDO, Kahalgaon, Bhagalpur credited in the account of SMVSSL maintained at Indian Bank, Bhagalpur. On this allegation alone, the petitioner has been allegedly dragged in this case.

Learned counsel further submits that from the First Information Report itself it may be found that on the direction of the District Collector, Bhagalpur, BDO, Kahalgaon had opened an account in SMVSSL, an NGO involved in banking business with the approval of the District Cooperative Officer and since the SMVSSL was not having the clearing facilities from the nationalized bank, therefore, several accounts were opened by the SMVSSL in different nationalized bank including Indian Bank to get the clearing facility. The cheque in question was, thus, in the name of BDO, Kahalgaon and was deposited in the account of SMVSSL for its clearance, therefore, the same was presented by the employee of SMVSSL to the Indian Bank. It is submitted that since the petitioner's bank was having business relationship with the SMVSSL, therefore, in a bonafide approach the petitioner had filled up the deposit slip.

Learned counsel submits that in any case the petitioner is not a beneficiary in the entire transactions and the investigating agency has not found any amount/property access to the known source of the petitioner. The petitioner is said to be a 65 years old person ailing and is suffering from various disease.

Learned counsel submits that the petitioner has always cooperated in course of investigation and after submission of chargesheet no purpose would be served by putting him behind the bars particularly when the petitioner is in custody since 15.09.2018.

Learned counsel for the petitioner has placed before this Court the order passed by the Hon'ble Apex Court in the case of Pankaj Kumar Jha who was the Managing Director of Bhagalpur Central Cooperative Bank and had been made an accused in the Srijan Scam case. In Cr. Appeal No. 484 of 2020 vide order dated 17.07.2020 the Hon'ble Apex Court granted privilege of bail to said Pankaj Kumar Jha after noticing that the investigation in the said case was complete and no purpose would be served by keeping the petitioner behind the bars. After the said order of the Hon'ble Apex Court, the learned Co-ordinate Benches of this Court have allowed the privilege of bail to different accused some of whom are Hari Shankar Upadhyay @ Hari Shankar who has been granted bail in Cri. Misc. No. 40816 of 2019 and Md. Sarfrajuddin who has been granted bail in Cri. Misc. No. 38967 of 2020.

Learned counsel submits that the allegation against the petitioner in all the cases are in fact identical in nature and no distinction may be drawn in this regard. It is further pointed out that only yesterday this petitioner has been granted bail by this Court in Cr. Misc. No. 6136 of 2021 after discussing in detail the counter affidavit filed on behalf of the CBI.

Mr. Bipin Kumar Sinha, learned Standing Counsel for the CBI has in his usual manner vehemently opposed the prayer for regular bail of the petitioner. Upon noticing that this case was adjourned on 09.04.2021 for two weeks and then again on 25.06.2021 to enable learned Standing Counsel for the CBI to seek instruction, this Court called upon Mr. Sinha to point out any distinction between the present case and that of those cases in which the petitioner has been granted bail. In fairness to learned Standing Counsel for the CBI, this Court must record that Mr. Sinha submitted that the different co-accused have been granted bail including the present petitioner in similar kind of allegations after finding that the investigation against them is complete but the charge has yet not been framed and the trial is not likely to take place in near future. However, it is the contention of learned Standing Counsel for the CBI that in case the petitioner is found involved in tampering with evidence or influencing the course of trial, the CBI must have a right to file an appropriate application before this Court for cancellation of bail of this petitioner.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the petitioner is in custody since 15.09.2018, investigation against him is complete and the chargesheet stands filed but the charge has yet not been framed, in similar kind of allegations, the petitioner has been granted bail in some of the cases and some of the accused in other Srijan cases have been granted bail, no distinction has been made out before this Court against the petitioner in the present case, 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 RC-17(S)/18 giving rise to Special Case No. 10 of 2020 arising out of Kotwali (Bhagalpur) P.S. Case No. 662 of 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 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 co-operate by attending the same on each and every date fixed in the matter. Two consecutive defaults in putting appearance shall lead action towards cancellation of bail of the petitioner.

In case the petitioner is found involved in tampering with evidence or influencing the course of trial, the CBI may takes 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’.