IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16351 of 2021

Arising Out of PS. Case No.-17 Year-2017 Thana- C.B.I CASE District- Patna

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BARUN KUMAR S/o Late Jagdish Prasad Yadav R/o Sahebganj, Lower Champa Nagar Road, Ward No.-9, P.S.- University, Distt- Bhagalpur

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Union of India Through C.B.I. New Delhi, Govt. of India Delhi.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Rudal Prasad, Adv.
For the State : Mr.Satyendra Narayan Singh, APP
For the CBI : Mr. Bipin Kumar Sinha, SC, CBI

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 06-10-2021 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 learned counsel for the petitioner and Mr. Bipin Kumar Sinha, learned Standing Counsel for the Central Bureau of Investigation.

Petitioner in the present case is seeking regular bail in connection with Spl. Case No.04/2018, arising out of RC Case No.17(A)/2017, C.B.I./ACU-V/AC-II/New Delhi registered for the offences punishable under Sections 409, 420, 467, 468, 471, 477A & 120B of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. He is in custody since 20.09.2018. In the same SRIJAN scam cases, the petitioner has been made accused in 7 other cases. He has been granted bail in two of those cases.

As per the prosecution story, this petitioner being the Senior Manager, Bank of Baroda at Bhagalpur was part of a conspiracy allegedly hatched with the co-accused Smt. Manorma Devi (since deceased) and others and in furtherance of the said criminal conspiracy, it is alleged that he abused his official position and while verifying the SBI bankers cheque he credited the said cheque into the account of SMVSSL which was against the RBI guidelines. Thus, it is alleged that he had facilitated the misappropriation of money.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. As a Senior Branch Manger of the bank he had a limited role in the matter of verification of the cheque.

It is his further submission that in this case during investigation the CBI did not arrest the petitioner. The charge-sheet was filed in this case long back on or about 15.02.2018 and the petitioner is in custody since 20.09.2018 but despite expiry of over three years till date police papers have not been supplied to the petitioner.

Learned counsel submits that in the present case at least eight accused persons who are similarly situated with the petitioner have been granted the benefit of regular bail and one of them has been granted the privilege of anticipatory bail by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).5492/2020. He has filed a supplementary affidavit in which categorical statements have been made in paragraph '3' giving the case number and the name of the co-accused of this case who have been granted privilege of bail.

Learned counsel submits that there is no chance of commencement of trial in this case in near future, therefore, further incarceration of the petitioner in custody is not likely to help the prosecution and in the kind of evidence to be adduced in this case, there is no chance of tampering with the evidence by the petitioner.

Mr. Bipin Kumar Sinha, learned Standing Counsel for the CBI has though opposed the prayer for regular bail of the petitioner but at the same time does not dispute the contention of the petitioner that till date police papers have not been supplied to the petitioner. Learned Standing Counsel has not brought any distinction in the case of this petitioner with that of those who have been granted privilege of bail by several coordinate Benches of this Court.

In fairness to Mr. Sinha this Court must mention that he has placed before this Court a copy of the order dated 15.09.2021 passed in the case of one of the accused of the SRIJAN scam namely Amrendra Kumar Yadav, the said Amrendra Kumar Yadav was when refused the privilege of bail, moved to the Hon'ble Supreme Court where the Hon'ble Supreme Court refused to interfere with the order of the Hon'ble High Court but observed that if charge is not framed within a period of six months from today (15.09.2021) it will be open for the petitioner to apply for bail before the High Court.

Learned counsel for the petitioner submits at this stage that so far as the order passed by the Hon'ble Supreme Court in the case of Amrendra Kumar Yadav is concerned, the said order is not in respect of this case, moreover it is a matter of record that in the present case several co-accused have been granted privilege of bail and if other cases are also to be looked into then it is further a matter of record that in Special Leave to Appeal (Crl.) No.1530 of 2020 one of the accused namely Pankaj Kumar Jha who was the Managing Director of the Bhagalpur Central Cooperative Bank has been granted privilege of bail by the Hon'ble Supreme Court after noticing that he was in custody for over three years and the charges were not framed.

Thus, learned counsel submits that the petitioner deserves privilege of bail.

Considering the materials placed before this Court particularly that (i) this petitioner is one of the co-accused in the case in which at least eight accused have been granted privilege of regular bail/anticipatory bail either by the learned coordinate Benches of this Court or by the Hon'ble Supreme Court; (ii) no distinction has been drawn by learned Standing Counsel for the CBI in the case of this petitioner with that of those who have been granted privilege of bail and (iii) that admittedly till date police papers have not been supplied to the accused, therefore, there is no chance of framing of charge in near future, the petitioner has already spent over three years in custody and his further incarceration is not likely to result in any help to the prosecution, added to that is that there is no submission on behalf of the CBI that there is any chance of tampering with the evidence or interfering with the course of trial if the petitioner is released on bail, under these circumstances, 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 Special Case No.04/2018 arising out of RC Case No.17A/2017, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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 if the petitioner is found involved in tampering with the evidence it will be open for the CBI to take steps for cancellation of the bail of the petitioner.

(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’.