IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.45603 of 2021

Arising Out of PS. Case No.-15 Year-2017 Thana- C.B.I CASE District- Patna

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Sarita Jha, W/O 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

Central Bureau of Investigation New Delhi

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Uday Pratap Singh, Advocate
For the Opposite Party/s : Mr. Avanish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

7 04-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

2. Heard Mr. Uday Pratap Singh, learned counsel for the petitioner and Mr. Avanish Kumar Singh, learned counsel for the C.B.I.

3. The petitioner seeks regular bail, who is in custody in connection with R.C. No. 15/A/2017, giving rise to Spl. Case No. 13 of 2020, arising out of Kotwali (Adampur) P.S. Case No. 508 of 2017, for the offences punishable under Sections 120B/34, 409, 420, 467, 468, 471 of the Indian Penal Code and

Sections 13(2) r/w 13(1(c) & 13(1)(d) of the Prevention of Corruption Act, 1988.

4. As per prosecution case, it is alleged that during the period 2012-14, the officials of Indian Bank, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.30,25,43,630/- from the Current Account No.6084978909 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur Branch maintained with the Indian Bank Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-14, the proceeds of five cheques worth Rs.20 Crore, issued by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No.6084978909 maintained with the Indian Bank, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount. It is also alleged that during the period 2012-17, the officials of the Bank of Baroda, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.17,94,85,446.83 from the Current Account No.10010100013202 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur Branch maintained with the Bank of Baroda, Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-17, the proceeds of nine

cheques worth Rs.30,95,28,000/- issue by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No. 10010100013202, maintained with the Bank of Baroda, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount.

5. It is submitted by the learned counsel appearing on behalf of the petitioner that after initiation of the investigation, the name of the petitioner does not figure in the first charge-sheet, but later on a supplementary charge-sheet has been submitted by the investigating officer, in which the name of the petitioner has been implicated alleging therein that she was one of the signing authority of jointly operated accounts with Manorama Devi (the then Secretary of Srijan Mahila Vikas Sahyoug Samiti Limited, Sabour, Bhagalpur) (hereinafter referred to 'SMVSSL') over the cheques authorized by the Managing Committee of the said Samiti. It is further submitted that the petitioner is not the beneficiary in the entire scam, as during the course of investigation not a single penny has been seized/recovered either from the account of the petitioner or from her possession. It is next submitted that the petitioner being an employee of SMVSSL was authorized signatory and

only on the said capacity she has signed over some cheques and she denied the allegation that the same has been done only in order to hide the misappropriation of public funds. It is also submitted that in the present case (RC 15/(A)/2017) one of the co-accused, namely, Pankaj Kumar Jha, who happened to be the then Managing Director of the Bhagalpur Central Co-operative Bank has been granted bail by the Hon'ble Supreme Court in Cri. Appeal No. 484 of 2020, arising out of SLP (Cri) No. 1530 of 2020 vide order dated 17.07.2020. It is lastly submitted that following the aforesaid order of the Hon'ble Supreme Court other co-accused, namely, Hari Shankar Upadhyay, Subrato Das, Atul Raman and Ram Krishna Jha, have been granted bail by the different learned co-ordinate Benches of this Court.

6. It is next submitted that with regard to the present case, the investigation is already completed and charge-sheet has already been submitted and moreover any further interrogation is not required. However, this petitioner is in custody since 12.08.2017 and she has been remanded in the present case on 19.10.2020.

7. On the other hand, learned counsel for Central Bureau of Investigation (CBI) submits that the petitioner played an active role in diversion of funds of Bhagalpur Central Co-

operative Bank Ltd., Bhagalpur dishonestly and fraudulently in criminal conspiracy with Smt. Manorama Devi, the then Secretary of SMVSSL and others. It is also submitted that the petitioner was holding a responsible post and she was the authorized signatory of several Bank accounts of SMVSSL, which were maintained in two Banks i.e. Indian Bank, Bhagalpur Branch and Bank of Baroda, Bhagalpur Branch and investigation has revealed that proceeds of crores of rupees, which belonged to the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur was fraudulently credited into these accounts of SMVSSL. It is also submitted that during the course of investigation sufficient oral and documentary evidence have come and on being found prima facie involvement of the petitioner, a supplementary charge-sheet has been submitted against her. The learned counsel for the CBI also relied upon some of the celebrated judgments of the Hon'ble Supreme Court rendered in the case of **Kehar Singh & Ors Vs. State (Delhi Admn.)**, since reported in **AIR 1988 SC 1883** as also in the case of **Nimmagadda Prasad Vs. C.B.I., Hyderabad**, since reported in **(2013) 7 SCC 466**.

8. In response to the aforesaid submissions, learned counsel for the petitioner submits that the Hon'ble Supreme

Court in the case of **Sanjay Chandra Vs. C.B.I.**, reported in **(2012) 1 SCC 40** (2G scam case) while allowing the bail application of the applicant has taken a view that since investigation has already been completed and charge-sheet is already filed, therefore, the presence of the appellant in custody may not necessary for further investigation and granted bail to the appellant, pending trial.

9. Having considered the submissions made on behalf of the parties, this Court finds that the learned counsel for the CBI has not denied that the investigation of the present case is already completed and further no material has been brought on record to show that her release would cause any impediment in speedy disposal of the trial, apart from the fact that there is no allegation that the petitioner is indulged in tampering with the evidence and not co-operating in the investigation of any other case or in the trial.

10. It is also taken note of the fact that the Hon'ble Supreme Court has been pleased to grant bail to the co-accused, namely, Pankaj Kumar Jha by taking into account the period of incarceration of the petitioner and factum of investigation being complete and further on relying upon the aforesaid order of the Hon'ble Supreme Court, the other co-accused persons have also

been granted bail by the different learned coordinate Benches of this Court and moreover, the trial is not likely to be concluded in near future and this petitioner is in custody since 12.08.2017 and remanded in this case on 19.10.2020, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of Special Judge, C.B.I.-II, Patna in connection with R.C. No. 15/A/2017, giving rise to Spl. Case No. 13 of 2020, arising out of Kotwali (Adampur) P.S. Case No. 508 of 2017 with the following conditions:

(i) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the learned court below shall be at liberty to cancel the bail bond of the petitioner.

(ii) One of the bailors shall be resident of the territorial jurisdiction of the learned court below,

(iii) The petitioner shall not leave the country without permission of the learned trial court.

(iv) 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 bonds 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.

(Harish Kumar, J)

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