IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10484 of 2022

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna

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BISHWANATH DUTTA S/O ADHIR DUTTA Resident of Flat No. 201, Draupadi Kunj, New Patliputra, P.S.- Shri Krishna Puri, District- Patna

... ... Petitioner/s

Versus

The C.B.I. New Delhi

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Amarendra Nath Verma
For the Opposite Party/s : Mrs. Nivedita Nirvikar, Sr. advocate, SC CBI

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL ORDER

5 22-11-2022 Heard learned counsel for the petitioner and learned Standing Counsel for the Central Bureau of Investigation ('CBI' in short).

The petitioner has preferred the instant application for grant of pre arrest bail in a case registered under sections 409, 420, 467, 468, 474/ 120B of the Indian Penal Code and u/s 13(2) read with 13(1)(c) & (d) of Prevention of Corruption Act.

The instant case is popularly known 'Srijan Scam'. It is stated that as a result of conspiracy between the accused persons including this petitioner, various large amounts belonging to the Government was illegally transferred to the accounts of Srijan Mahila Vikas Sahyog Samiti (SMVSSL). It is thus stated that as a result of the fraudulent transfer the funds of the DUDA, Bhagalpur was misused by preparing forged bank vouchers for the year 2014-16.

It is submitted by learned counsel for the petitioner that petitioner has falsely been implicated in this case. So far the allegation that this petitioner, Assistant Branch Manager, Indian Bank, Bhagalpur and the then Branch Manager passed jointly three cheques worth Rs. 5.5 crores drawn in favour of SMVSSL purported to have been issued under the sign and seal of D.M., Bhagalpur, it is submitted that as soon as fraud was disclosed to them the amount of 5.5 crores withdrawn from the Collector's official account was successfully recovered by the efforts of the then Branch Manager and this petitioner. Hence, there is no wrongful loos to the bank or to the drawer as per the Bank's audit-report itself nor any wrongful gain to any one including the petitioner and such no offence whatsoever is attracted. It is further submitted that petitioner has fully co-operated during the investigation and there is no allegation of tampering with evidence against him. Charge sheet has already been submitted in the case.

Learned counsel for the CBI opposed the prayer for bail and submitted that petitioner has played active role in criminal conspiracy with other co-accused for fraudulent misappropriation of funds from accounts of DUDA, Bhagalpur. It is submitted that three cheque Nos. 656865 dt. 29.08.2016 of Rs. 3 crore, 656866 dt. 29.08.2016 of Rs. One crore and cheque No. 656872 dt. 05.09.2016 of Rs. 1.5 crore has been processed by this petitioner. He has also verified the signature on the cheques and passed it for crediting into the account of SMVSSL. Therefore, this petitioner in criminal conspiracy with other accused persons passed the forged cheques by abusing his official position with dishonest intention to transfer the funds to the account of SMVSSL fraudulently.

Considering the facts of the case, nature of accusation against the petitioner coupled with the fact that petitioner has fully co-operated during the investigation and there is no allegation of tampering with the evidence against him and charge sheet has already been submitted in the case, let the petitioner, above named, in the event of his arrest/ surrender within a period of six weeks from today shall be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, CBI-II, Patna in connection with special Case 5/2020 arising out of RC case No. 11(A)/ 2017, subject to conditions laid down u/s 438(2) of the Cr. P. C. with the following conditions: -

(I) The Petitioner/accused should not contact the prosecution witnesses or any person acquainted with the facts of accusation against them so as to dissuade them from disclosing the same to the Court or to the police.

(II) The petitioner/accused should cooperate the trail court in expeditious disposal of the trial against them.

(III) The petitioner/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The petitioner/ accused should not repeat commission of similar offence in future and if they are found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicants in the instant case.

(Prabhat Kumar Singh, J)

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