IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14160 of 2022

Arising Out of PS. Case No.-13 Year-2017 Thana- C.B.I CASE District- Patna

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BIPIN KUMAR @ BIPIN KUMAR SHARMA S/o Sri Kartik Kumar Resident of Hanuman path Tilkamanjhi, Near State Bank of India, P.S. - Tilkamanjhi, Dist. - Bhagalpur.

... ... Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION NEW DELHI

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Adv.

For the Opposite Party/s : Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

4 03-08-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned counsel appearing for the Central Bureau of Investigation.

The petitioner seeks bail in connection with RC13(A)/2017 giving rise to Special Case No. 02 of 2021 arising out of Kotwali (Bhagalpur) P.S. Case No. 500 of 2017 registered for the offence under Sections 120-B, 409, 420, 467, 468 and 471 of the Indian Penal Code as well as Section 13(2) read with section 13(1)(c) of the Prevention of Corruption Act, 1988.

The entire prosecution case relates to illegal transfers of huge government amount in the account of SMVSSL from the account existing with in the name of District Land Acquisition Officer, Bhagalpur with the Bank of Baroda, Bhagalpur.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been made accused in this case with an ulterior motive. As a matter of fact, this petitioner has not been named in the entire prosecution case. But, during course of investigation, his name has surfaced in this case and after investigation, the C.B.I. has submitted first charge-sheet bearing No. 06 of 2017 on 06.11.2017 implicating six persons only but surprisingly, by way of supplementary charge sheet bearing CS No. 17 of 2020 dated 31.12.2020 that too after passing of three years, the investigating officer has implicated sixteen other persons including the petitioner alleging therein that in connivance of other co-accused, the petitioner being the active associate of Late Manorma Devi, Secretary of Srijan Mahila Vikash Sahyog Samiti Ltd. (for short 'SMVSSL') has played vitol role in diverting the illegal gain of the accused persons related to SMVSSL in order to suppress the financial illegalities committed from the Government account and also he got financial gain by defalcating the public fund.

Learned counsel for the petitioner further submitted that neither the petitioner happens to be the employee/ subordinate of the SMVSSL nor he had been associated with the Secretary, SMVSSL in any manner rather merely on the ground that the petitioner was having Cash Credit account in the unit of Srijan, C.B.I. has raised suspicion and implicated in this case without any material fact. He further submits that not even a single penny has been transferred in favour of the petitioner from the account of SMVSSL nor he has misappropriated the Government fund in any way. He further submits that so far as allegation against the petitioner of being mediator in order to get the flat booked or registered by the other co-accused persons with M/s Gardenia India Ltd. is concerned, it can be said that the prosecution has established that the petitioner was only the mediator like a real estate broker for the purpose of sell and purchase of flats nothing else and the role of the petitioner was to the limited extent of negotiation as he never been a beneficiary either in the form of purchaser or in the form of seller. Therefore, the petitioner does not seem to be instrumental in any manner in the alleged occurrence of financial irregularities and the misappropriation of Government funds. Moreover, the co-accused, namely, Ajay Kumar Pandey and Deo Shankar Mishra, have already been granted bail by different co-ordinate Benches of this Court vide order dated 07.09.2021 and 10.12.2021 passed in Cr. Misc. No. 6093 of 2021 and Cr. Misc. No. 40045 of 2021, respectively. One more co-accused, namely Sant Kumar Sinha has already been granted bail by this Court vide order dated 16.12.2021 passed in Cr. Misc. No. 41898 of 2021. The petitioner is rotting in judicial custody since 30.11.2021.

Learned counsel appearing for the Central Bureau of Investigation has, vehemently, opposed the prayer for bail of the petitioner and submitted that though the petitioner has not been named in the F.I.R., his name has surfaced in the entire episode during course of investigation. The petitioner has also been charge-sheeted in this case vide supplementary Charge-sheet No. 17 of 2020 submitted on 31.12.2020 under Sections 120-B read with Sections 409, 467, 468, 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c)(d) of the P.C. Act, 1988. She further drawn the attention of this Court on the paragraph

Nos. 16.58 and 16.88 of the supplementary charge- sheet, as aforesaid, in which, according to investigating officer, role of the petitioner has been specified and categorized in the entire case which is quite sufficient for prosecution of the petitioner in this case as the aforesaid paragraphs clearly established that the petitioner being the close and active associate of Secretary, SMVSSL has been instrumental in defalcating and misappropriating the government fund and resultantly he has got his illegal financial gain. Apart from that, she further submits that altogether four cases relating to the SRIJAN Scam other than the present one have been registered against the petitioner.

Considering the facts and circumstances of the case, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Special Case No. 02 of 2021 -cum- RC 13/A/2017 arising out of Kotwali (Bhagalpur) P.S. Case No. 500 of 2017 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the

Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) The petitioner shall surrender his passport, if any, before the court below.

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.

(Rajesh Kumar Verma, J)

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