IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40274 of 2021

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

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NABIN KUMAR SAHA Son of Bhim Narayan Saha Resident of Village and P.O. Babhangama, Police station - Barahat, District Banka at present Hope anand Flat No. 205, West Boring Road, District - Patna.... ... Petitioner/s

Versus

The Central Bureau Of Investigation through its Superintendent Of Police, Patna Bihar ... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan, Adv
For the C.B.I. : Mr.Bipin Kumar Sinha, Adv

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

3 10-03-2022 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 for the C.B.I.

The petitioner seeks bail in connection with Special Case No. 04 of 2018 (RC. No. 17/A/17) arising out of Bhagalpur Kotwali P.S. (Tilakmanjhi) Case No.513 of 2017 registered for the offences under Sections 409,420,467,468,471,120(B),34,477A of the Indian penal Code read with Section 13(2) read with Section 13(1)(d) of the P.C.Act, 1988.

The prosecution case, in brief, is that an amount of Rs. 4,85,42,000/- from account N.10010100013447 in March 2014; an amount of Rs.10,92,57,512/- from account

No.10010100015640 in April 2015; an amount of Rs.11,09,27,235/- from account No. 10010100013931 in November 2013; an amount of Rs.5,28,65,268/- from account No. 10010100016181 in January 2017 were fraudulently diverted from the above said accounts of DDC-cum-CEO, Zila Parishad, Bhagalpur in Bank of Baroda to the account of Srijan Mahila Vikas Sahyog Samiti Ltd. It is further alleged that an amount of Rs.16,00,89,751/- has been fraudulently diverted from account No.6115136905 in the name of DDC-cum-CEO, Zila Parishad, Bhagalpur in Indian Bank, in March 2013 to the account of SMVSSL. It is also further alleged that an amount of RS.10,00,00,000/- was fraudulently transferred from the account No. 10010100010844 of DDC-cum-CEO, Zila Parishad, Bhagalpur to the account of SMVSSL, against five cheques of Rs.2 crors each.

Learned counsel appearing for the petitioner submits that the petitioner is not named in the FIR and his name transpires during course of investigation. He further submits that the CBI, after investigation, submitted the chargesheet against 13 persons including the petitioner who is accused No.8. He further submits that according to the chargesheet, the check period of this case is 2009-17 whereas the petitioner worked as

Branch Manager, Indian Bank, Bhagalpur Branch from July 2008 to June, 2011 and thereafter was again transferred as Chief Manager in July, 2017. He further submits that the charge sheet has already been submitted but charges have not been framed. He further submits that no offence under Sections 406,420,467,468,471 and 477A of IPC is made out against the petitioner and petitioner is not alleged to have altered any document or is not said to be the maker of any document nor has the petitioner dishonestly induced delivery of cheque amount in another account. He further submits that there is no allegation of tampering with the evidence or threatening the witnesses. He further submits that co-accused, namely, Ram Kishan Jha has been granted bail vide order dated 27.05.2020 in Cr. Misc. No.33334 of 2019 and another co-accused, namely, Subrat Das @ Subrata Das has been granted bail vide order dated 16.09.2020 in Cr. Misc. No.22914 of 2020 by different Coordinate Benches of this Hon'ble Court the petitioner is in custody since 14.08.2019.

On the other hand, learned counsel for the C.B.I. submits that the petitioner was posted as Branch Manager in Bhagalpur Branch of Bank of Baroda and his duty to verify the cheques before passed the same. He is one of the main conspirators in the diversion of funds from the accounts of DDC -cum-CEO, Zila Parishad, Bhagalpur to the accounts of SMVSSL in Bank of Baroda, Bhagalpur Branch. He further submits that the petitioner has played a major role in the criminal conspiracy of misappropriation and diversion of Govt. funds worth Rupees hundreds of crores. There are sufficient evidences oral/documentary evidence against him on the basis of which he has been chargesheeted in the present case alongwith other accused persons. Investigation revealed that the petitioner in conspiracy with Smt. Manorma Devi and Smt. Sarita Jha in order to avoid dishonouring of cheque issued by DDC-cum-CEO, Zila Parishad, Bhagalpur. He further submits that the charges are likely to be framed and trial is going to commence very soon. He further submits that the petitioner carries twelve more cases other than the present one.

Considering the facts and circumstances of the case, let the petitioner, above named, 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 Special Judge-II, C.B.I., Patna in connection with Special Case No. 04 of 2018 (RC. No. 17/A/17) arising out of Bhagalpur Kotwali P.S. (Tilakmanjhi) Case No.513 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 cancelled 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 Indian passport before the learned court below, if he possesses the same.

(4) 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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