IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36143 of 2021

Arising Out of PS. Case No.-10 Year-2018 Thana- C.B.I CASE District- Patna

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RAM KRISHNA JHA S/O MUNNA JHA R/O VILLAGE BRAHMAN TOLA, P.S-SABOUR, DISTRICT-BHAGALPUR.

... ... Petitioner/s

Versus

CENTRAL BUREAU OF INVESTIGATION (C.B.I.), NEW DELHI NEW DELHI

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 31541 of 2021

Arising Out of PS. Case No.-10 Year-2018 Thana- C.B.I CASE District- Patna

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AJAY KUMAR PANDEY Son of Rameshwar Pandey Resident of Village - Masakchak Sarat Chand path, Police Station - Aadampur, District - Bhagalpur.

... ... Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION (C.B.I), NEW DELHI New Delhi.

... ... Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 36143 of 2021)

For the Petitioner/s : Mr.Sanjeev Ranjan, Adv.

For the Opposite Party/s : Ms.Nivedita Nirvikar, Sr. Adv.(Spl. P.P. C.B.I.)

(In CRIMINAL MISCELLANEOUS No. 31541 of 2021)

For the Petitioner/s : Mr.Sanjeev Ranjan, Adv.

For the Opposite Party/s : Mr.Sourendra Pandey, (Spl. P.P. C.B.I.)

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

7 16-05-2022 The applicants/accused in Special Case No. 11 of 2020 arising out of R.C. Case No. 10A/2018 registered for the offences punishable under Sections 409, 420, 467, 468, 471 read with Section 120(B) of the Indian Penal Code as well as Section 13(2) read with Section 13(1)(c) and 13(1) (d) of Prevention of

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Corruption Act, 1998, by these applications are seeking their release on bail during pendency of the trial. Applicant Ram Krishna Jha is an under trial prisoner in this case since 24.08.2020 whereas applicant Ajay Kumar Pandey is an under trial prisoner in this case since 22.08.2020. The charge sheet against both these clerks who were working at the relevant time with Indian Bank, Bhagalpur has already been submitted by the prosecuting agency.

Heard both sides.

It is argued on behalf of the respondent that the offence alleged against the applicants is serious and is having financial implications. Funds of the State Government have been swindled by the accused persons and therefore the applications are liable to be rejected.

I have considered the submissions so advance and also perused the charge sheet.

Allegation against the accused persons in this case is to the effect that Rs. 16,50,000,00/- was fraudulently transferred from A/c No. 548689983 of DM, Bhagalpur in Indian Bank over the period 31.01.2007 to 28.02.2008 and Rs. 16,94,23,540/- was illegally deposited in this account from the A/c of SMVSSL over the period 27.05.2007 to 19.10.2009. It is further alleged

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that Rs. 4,80,00,000/- was fraudulently transferred from A/c No. 548685377 of DM, Bhagalpur in Indian Bank, Bhagalpur over the period 22.01.2007 to 16.09.2011 and Rs. 4,67,18,728/- was illegally deposited in this account from the account of SMVSSL over the period 27.05.2007 to 19.10.2009. It is further alleged that Rs. 50 lacs was fraudulently transferred from A/c No. 548685399 of DM, Bhagalpur on 27.11.2008 and Rs. 34 lacs was illegally deposited in this account from the A/c of SMVSSL over the period 21.01.2009 to 24.05.2010.

So far as applicant Ram Krishna Jha is concerned, this clerk is alleged to have conspired with main accused persons and with dishonest intention had filled the deposit slip in the bank. It is further averred against him that he used to give information to the main accused persons regarding deposit of amount in the account of the District Magistrate so as to facilitate its withdrawal by other accused persons.

So far as applicant Ajay Kumar Pandey is concerned, allegation against him is to the effect that he used to enter the cheque in the system of the bank for transfer of funds.

Investigation of the subject crime is over. The applicants are undergoing pre-trial detention from the year 2020 in the instant case. This Court is sure that trial will take years

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together to finish.

There is no material on record to show that the applicants would be in a position to tamper prosecution evidence which is primarily in the form of documentary evidence. There is no material on record to show that applicants would not be available for the trial in case they are released on bail. Except these two criteria, there is nothing to demonstrate that further pre-trial detention of the applicants and that too for indefinite period is warranted in this case. Therefore, the order:-

i. The application is allowed.

ii. The applicants/accused in Special Case No. 11 of 2020 arising out of R.C. Case No. 10A/2018 registered for the offences punishable under Sections 409, 420, 467, 468, 471 read with Section 120(B) of the Indian Penal Code as well as Section 13(2) read with Section 13(1)(c) and 13(1) (d) of Prevention of Corruption Act, 1998, be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) each on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicants/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against them so as to dissuade them from

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disclosing such facts to the Court or to any police officer.

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

(III) The applicants/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 applicants 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.

The applicants to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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