IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24562 of 2022

Arising Out of PS. Case No.-11 Year-2017 Thana- C.B.I CASE District- Patna
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AMRENDRA KUMAR YADAV S/o Late Sri Ayodhyya Gope R/o Mohalla- Mishra Tola, Badi Khanjarpur, Bhagalpur, Bihar. Permanent, R/o Village- Prashastdih, P.S.- Sabaur, District- Bhagalpur.

... ... Petitioner/s

Versus

The State of Bihar through C.B.I. Acu- V, Ac-II, New Delhi. New Delhi

... ... Opposite Party/s
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Appearance :
For the Petitioner/s : Mr.Ravindra Kumar, Adv

For the CBI : Ms. Nivedita Nirvikar, Sr. Adv
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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

5 31-08-2022 The bail application filed by petitioner was heard on 17.08.2022 and petitioner was granted bail by this Court, however, at the time of pronouncement of the order it came to the notice of this Court that the RC Case number has wrongly been typed in the petition, as from the impugned order passed by the Special Court, RC case number is recorded as 'RC Case No. 11A of 2017, however, in bail petition it is typed as 'RC Case No. 11 of 2017' and accordingly, it was directed to be listed under the heading 'To Be Mentioned'.

A supplementary affidavit has been filed on behalf of petitioner that due to typographical error in the bail application **'RC Case No. 11A of 2017'** has wrongly been typed as 'RC Case No. 11 of 2017, as such 'R.C. Case No. 11 of

2017' be read as **'RC Case No. 11A of 2017.'**

Heard learned counsel for the parties.

Petitioner seeks bail in connection with Special Case No.03/18 arising out of RC Case No.11**A**/17 dated 25.08.2017, registered for the offence punishable under Sections 120B, r/w 409/420/467/468 and 471 of the Indian Penal Code and Section 13(2) r/w 13(1)(c) and (d) of the Prevention of Corruption Act.

Earlier also, petitioner had moved this Court for grant of regular bail which was rejected twice by this Court vide order dated 17.09.2018 passed in Cr. Misc. No. 46648 of 2018 (Annexure-1) and order dated 24.02.2021 passed in Cr. Misc. No.23861 of 2020 (Annexure-1 series) with liberty to the petitioner to renew the prayer for bail after framing of charge, against which, petitioner had moved before the Hon'ble Supreme Court by filing SLA (Cr.)No(s). 5825/2021, which was disposed of on 15.09.2021, as contained in (Annexure 1 series), with a direction that if time schedule is not adhered to, it will be open for the petitioner to apply for bail before the High Court.

Petitioner is also accused in Spl. Case No.5/19 (RC 12/2017), Spl. Case No.7/19(RC 17/17), Spl. Case No.04/2020 arising out of R/C Case No.7/A/2018, and Spl. Case No.

12/2020 (R.C. Case No.14A/2017, under Sections 34, 120B, 409, 420, 467, 468, 471 of Indian Penal Code and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and in all these cases, petitioner is on bail.

Petitioner is also accused in Spl. Trial No. (PMLA) No. 5 of 2021 instituted under section 3 r/w Section 17 and 4 of Prevention of Money Laundering Act, 2002.

Petitioner was posted as Head Nazir, Nazarat Section, District,-Bhagalpur Collectoriate in the year 2013 for 6 months and thereafter he was transferred to Development Branch, Bhagalpur, Collectoriate and again transferred to Nazarat Section in September, 2014 as Assistant Nazir and he is one of the informant of the case.

Initially, FIR was registered as Kotwali (Bhagalpur) P.S. Case No. 494 of 2007 which was subsequently transferred to C.B.I. for investigation giving rise to FIR No. RC 2172017A0011 CBI, New Delhi in which charge-sheet no.2/18 dated 16.2.2018 was submitted against petitioner and two other accused, namely, Ajay Kumar Pandey and Rakesh Kumar.

Allegation is that cheque of Rs.12,20,15,075/- of Oriental Bank of Commerce drawn in favour of Indian Bank, Bhagalpur and which was to be deposited in the government account (DM, Bhagalpur), was diverted into the account of Srijan Mahila Vikas Sahyog Samiti Limited (SRIJAN) in connivance with staffs of Bhagalpur Collectoriate, bank officials and Secretary of SRIJAN on the basis of endorsement made on reverse side of cheque to credit the cheque in the SRIJAN account.

It is submitted on behalf of petitioner that two cheques were received by him and handed over to accused Ajay Kumar Pandey having the signature of District Magistrate on the back side of the cheque and one was credited into the genuine account of District Magistrate, Bhagalpur and another in the account of SRIJAN. In the second cheque on the basis of endorsement made on the back of the cheque to credit in the account of SRIJAN same was transferred in the account of SRIJAN by bank officials in connivance with SRIJAN employees and petitioner has no role in diversion of the fund and same was done contrary to the RBI guidelines. The Pass-book given to petitioner by Ajay Kumar Pandey showed credit of the amount in the account of District Magistrate, Bhagalpur. Petitioner has falsely been implicated in this case and there is no evidence showing involvement of petitioner in diversion of Govt. fund into the SRIJAN account. Petitioner is not beneficiary of this fraudulent act.

Prayer for bail has been vehemently opposed by Mrs. Nivedita Nirvikar, Sr. Advocate, appearing on behalf of CBI on the ground that during investigation it was revealed that petitioner-Assistant Nazir put up a proposal to open a new Bank Account in the name of District Magistrate, Bhagalpur, with Indian Bank on 26.09.2014 along with an account opening form and said proposal was recommended by Deputy Collector, Additional Collector and approved by the District Magistrate, Bhagalpur and new bank account number was opened with Indian Bank in the name of District Magistrate, Bhagalpur.

After opening the above account, petitioner put up two cheques of which one was of Oriental Bank of Commerce for Rs. 12,20,15,075.00/- in favour of Manager, Indian Bank, Bhagalpur and the counter foil dated 30.09.2014 bears the handwriting of the petitioner indicating that amount of Rs. 12,20,15,075.00/- was deposited with the Indian Bank, Bhagalpur, in the account of D.M. Bhagalpur, however, this amount was credited into the account of SRIJAN and investigation revealed active role played by petitioner in defrauding the State Exchequer. Petitioner is also a beneficiary of misappropriation and defalcation of Govt. money.

Apart from petitioner, active participation of accused No.1, Ajay Kumar Pandey, clerk, in the Indian Bank and accused no.2, Om Kumar Shrivastava, Head Nazir, Bhagalpur Collectoriate has been found in committing said forgery by diverting huge government fund to SRIJAN.

It is submitted that similarly placed accused Ajay Kumar Pandey has been granted bail by this Court vide order dated 3.12.2020 passed in Cr. Misc. No.25990 of 2020 (Annexure 12) after remaining in custody for one and a half year and another similarly placed accused Rakesh Kumar has been granted bail by this Court vide order dated 07.12.2020 passed in Cr. Misc. No.12094 of 2021 (Annexure-12 series) after remaining in custody for one year and nine months.

Charges have already been framed on 04.01.2022 and seven witnesses have been examined and more than 40 witnesses are yet to be examined and there is no likelyhood of trial being concluded in near future.

Petitioner is in custody since 19.01.2018 i.e. about more than 4 years and 6 months.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with **R.C. Case No. 11A of 2017** with following conditions:-

(1)Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

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

(4) Petitioner shall surrender his Passport in the trial court or file an affidavit to the effect that he does not hold a Passport.

(S. Kumar, J)

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