IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28380 of 2022

Arising Out of PS. Case No.-15 Year-2012 Thana- C.B.I CASE District- Patna

==

Sumit Kumar Jaiswal @ Sumit Kumar Choudhary S/o Shri Laxmi Prasad Jaiswal Resident of Jagdamba Palace Road, Barahiya Bazar, P.O. and P.S.- Lakhisarai, District- Lakhisarai, Presently residing at Mohalla- Hathsarganj, Road No. 2, Near Jamunilal College, P.S.- Town Hajipur, District- Vaishali, Bihar

... ... Petitioner/s

Versus

1. The Central Bureau Of Investigation Through Superintendent Of Police, Cb Patna Bihar
2. Chief Manager, Punjab National Bank, SME Branch, Boring Canal Road, Patna Bihar

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s	:	Mr. Krishna Kumar Singh, Sr. Advocate
For respondent- Bank	:	Mr. Suresh Pd. Singh No. 1, Advocate
For C.B.I.	:	Mr. Avanish Kr. Singh, Spl.P.P.
	:	Mr. Ambar Narayan, Advocate

==

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 02-11-2022 Heard the learned counsel for the petitioner, the learned counsel for the respondent- Bank and the learned counsel for the C.B.I.

The present petition is by way of second attempt at the behest of the petitioner for grant of bail in connection with Special case no. 08 of 2012, arising out of F.I.R. no. P.S. CBI/ ACB R.C. 02320 12A 0015, registered for the offence punishable under Sections 420, 409, 467, 468, 471, 120(B) of the Indian Penal Code and Section 13(2) read with Sections 13(1) (c) and (d) of Prevention of Corruption Act, 1988, inasmuch as the earlier prayer of the petitioner for grant of bail was rejected by this Court by an order dated 15.12.2020, passed in Cr. Misc. no. 23563 of 2020.

The allegation, as per the First Information Report is that the petitioner, who is Director of Ms. Baseline petroleum Limited, along with other co-accused persons, approached the Bank for credit facilities and the Bank after examining the proposal of the company for credit facilities made by the Directors of the company including the petitioner, sanctioned a term loan of Rs. 90 lacs and cash credit facilities of Rs. 1.50 crores. It has been further alleged that the petitioner being a Director of the Company along with others, hypothecated the stocks, plants, machinery and the secured assets and other collateral securities provided by one of the Directors Sri Arvind Kumar Choudhary in the shape of a piece of land pertaining to Khata no. 314, Plot no. 206 (Part), Thana no. 153, Ward no. 4, having an area of 45 decimal of land and another plot having an area of 27 decimal of land total measuring 72 decimal. It has also been alleged that during course of taking possession under the SARFAESI Act, 2002, the Bank came to know that the title deeds of 72 decimal of land was a forged documents. It has further been alleged that borrower company in which the petitioner is one of the Directors, in conspiracy with each other, with fraudulent and dishonest intention, induced the complainant Bank to grant loan facilities and has committed cheating and misappropriated the loan amount of the bank having a total value of approximately Rs. 3 crore.

The present case has a chequered history, inasmuch as the petitioner had initially filed a petition before this Court for grant of anticipatory bail bearing Cr. Misc. no. 50069 of 2012, which was rejected by a co-ordinate Bench of this Court vide order dated 12.11.2013. The petitioner is stated to have again filed another anticipatory bail petition before this Court vide Cr. Misc. no. 40333 of 2015, however, the same was also rejected by a co-ordinate Bench of this Court vide order dated 08.10.2015 and the said petition had stood withdrawn. Thereafter, the petitioner had approached the Hon'ble Supreme Court of India by filing a Special Leave Petition bearing S.L.P. (Crl.) No. 9868 of 2013, however, the same had also stood dismissed by an order dated 16.12.2013, nonetheless, the petitioner was granted four weeks' time to surrender before the learned court below, however, despite lapse of several years, the petitioner failed to honour the orders of the Hon'ble Apex Court and remained absconding. Thereafter, the learned court below had exhausted the procedure, as contained in Sections 82 and 83 Cr.P.C. *qua* the petitioner herein and ultimately, the petitioner was declared absconder, whereafter permanent warrant of arrest was issued against him in the year 2017, nonetheless the petitioner did not surrender and ultimately, he was arrested by the C.B.I. in the year 2020.

The learned Senior counsel appearing for the petitioner has submitted that the petitioner is languishing in custody since 02.02.2020 and has approached this Court, inasmuch as this Court, by its earlier order dated 15.12.2020, had granted liberty to the petitioner to renew his prayer for bail after completion of two years in custody, in case, there is no progress in the on-going trial. It is further submitted that though the charges have been framed by the learned court below on 13.11.2020 but there is no progress, whatsoever, in the on-going trial.

Per contra, the learned counsel for the C.B.I. as well as the learned counsel appearing for the Bank have vehemently opposed the prayer of the petitioner for grant of bail. It is submitted that though the Hon'ble Apex Court had directed the petitioner to surrender before the learned court below in the year 2013 itself but the petitioner did not surrender, thereby defied the orders of the Hon'ble Apex Court and ultimately he could be apprehended by the C.B.I. only after lapse of 07 years i.e. in the year 2020. It is also submitted that if the petitioner is enlarged on bail, there is all likelihood that he will abscond again and will not submit to the jurisdiction/ process of the Court, as is evident from his past conduct. The learned counsel for the C.B.I. has further submitted that the merits of the case of the prosecution has already been delved at length and noted by this Court in its earlier order dated 15.12.2020, which depicts that the petitioner is involved in a very serious offence and he, in connivance and conspiracy with other Directors had defrauded and cheated the Bank and misappropriated a huge sum of Rs. 240 lacs as also in collusion with other Directors, had intentionally and deliberately defrauded the Bank in a systematic and calculative manner.

I have heard the learned counsel for the parties and perused the materials on record. This Court finds from the records that the petitioner has got scant regard for the process of law and has left no stone un-turned to overreach the process of law, as is apparent from the events depicted hereinabove in the preceeding paragraphs, apart from having defied the order of the Hon'ble Apex Court dated 16.12.2013, inasmuch as though the petitioner was granted four weeks' time to surrender, however he did not surrender and remained absconding for a good number of about 07 years, till he was arrested by the C.B.I. only in the year 2020. This Court had also called for a report from the learned court of Special Judge, C.B.I.-I, Patna, who has submitted a report dated 02.08.2022, wherein it has been stated that evidence of PW1 namely Ashok Kumar Sinha has been recorded and the next date has been fixed for 03.08.2022. Though it is true that there has been scant progress in the trial, however, the same is on account of impending effect of Covid-19 Pandemic.

Considering the past conduct of the petitioner, this Court is of the view that if the petitioner is enlarged on bail, there is ample possibility that he will abscond again and will not submit to the jurisdiction of the learned court below, in the ongoing trial, leading to the trial being thwarted, apart from the fact that the complicity of the petitioner in the alleged crime, as per the records of the case, is writ large, inasmuch as he has engaged in defrauding the Bank for personal gain at the cost of public money, hence this Court is not inclined to grant bail to the petitioner herein, accordingly, the present petition stands dismissed.

(Mohit Kumar Shah, J)

rinkee/-

U		T	