IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43370 of 2021

Arising Out of PS. Case No.-13 Year-2018 Thana- C.B.I CASE District- Patna

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Sant Kumar Sinha, S/o Late Anil Chandra Sinha, R/o Indraprastha Colony, Lichi Bagan, Ishakchak, P.S.- Ishakchak, District- Bhagalpur.

... ... Petitioner/s

Versus

Central Bureau of Investigation through Its Superintendent of Police, Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar Singh, Advocate
Mr. Ashok Kumar Singh, Advocate

For the Opposite Party/s : Mr. Avanish Kumar Singh, Advocate
Mr. Ambar Narayan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

7 08-08-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

2. Heard Mr. Abhishek Kumar Singh, learned counsel appearing on behalf of the petitioner, Mr. Avanish Kumar Singh, learned counsel for the C.B.I.

3. The petitioner seeks regular bail, who is in custody in connection with Special Case No. 08 of 2020, arising out of RC Case no. 13/S/2018 registered for the offences punishable under Sections 409, 419, 420, 467, 468, 471, 120B/34 of the Indian Penal Code and Section 13(2), 13(1)(c) (d) of the Prevention of the Corruption Act, 1980.

4. As per the prosecution case, it is alleged that

petitioner while working as Special Assistant, Bank of Baroda, Bhagalpur in collusion with other accused persons including Smt. Manorma Devi, Secretary, Srijan Mahila Vikash Seva Samiti Limited, Sabour, Bhagalpur (hereinafter referred to as 'SMVSSL') and Smt. Sarita Jha, Manager, SMVSSL, Sabour, Bhagalpur in a criminal conspiracy and in pursuance of the said conspiracy A/c payee cheques issued by DDC, Bhagalpur favouring BDO, Goradih were illegally credited into the a/c no. no.10010100003002 of Srijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur. Further, the said amounts were deposited in parts in the account no. 10010100010321 of B.D.O. Goradih over a period from 05.09.2008 to 17.03.2010. The aforesaid persons by their acts have temporarily misappropriated the Government fund of B.D.O., Goradih. It is also alleged that Sri Prem Kumar Sinha while working as Public servant entered into a criminal conspiracy with Smt. Manorama Devi, Secretary, SMVSSL, Smt. Sarita Jha, Manager, SMVSSL, Sri Nabin Kumar Sah, the then officer, Bank of Baroda, Bhagalpur Branch, Sri Sant Kumar Sinha, the then Clerk, Bank of Baroda, Bhagalpur Branch to misappropriate funds issued by DDC, Bhagalpur under Indira Awas Yojna through account payee cheques favouring BDO, Goradih, Bhagalpur maintained at Bank of Baroda, Bhagalpur Branch and cheated Government of Bihar. It is also alleged that in pursuance of the said criminal conspiracy Shri Sant Kumar Sinha (petitioner) by abusing his official position filled up cheques/pay-in-slips of SMVSSL favouring B.D.O. Goradih and thereby facilitated SMVSSL in concealing the fraud and honouring cheques of B.D.O., Goradih issued by him over a period to the Indira Vikash beneficiaries.

5. Learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as a clerk in Bank of Baroda, Mokama Branch in July, 1982 and on completion of his service retired from the post of Special Assistant, Bank of Baroda, Bhagalpur on 31.12.2017 and in his long 33 years of service there had never been any complaint whatsoever against the performance of his duty. It is next submitted that after one year of his retirement, the present F.I.R. was instituted on 16.08.2018 and after completion of the investigation, the charge-sheet has been submitted. It is further submitted that the petitioner is not named in the F.I.R. nor during the course of investigation any cogent material has come and save and except the allegation that the petitioner had filled up some cheques/pay-in-slips of SMVSSL faouring B.D.O., Goradih and as such he has facilitated SMVSSL in concealing

the fraud, there is no other material. Moreover, the cheques/pay-in-slips alleged to have been filled up by the petitioner has never been examined by any experts and this petitioner had himself surrendered on 11.09.2019 in connection with the Special case no. 04 of 2018 and thereafter he was remanded in the present case on 02.09.2020.

6. It is next submitted that one of the co-accused, namely, Pankaj Kumar Jha, in connection with Special case no. 37 of 2017, arises out of the Srijan scam, had moved before the Hon'ble Supreme Court in SLP (Crl.) No. 1530 of 2020 for grant of his bail and the Hon'ble Supreme Court while allowing his bail application has observed that further custody of the appellant may not be necessary, if the investigation is completed. Photo copy of the aforesaid order is annexed as Annexure-3 to this petition.

7. On the other hand, learned counsel appearing on behalf of C.B.I. vehemently opposes the bail application and submits that the filled up pay-in-slips for account payee cheques meant for B.D.O., Goradih and those cheques were credited illegally in the Srijan accounts. The petitioner is the maker of three cheques, which came up for clearing where the hand writing/signatures have been proved by the Bank officials, who

worked with him and were acquainted with his hand writing/signatures. It is further submitted that the materials have come which suggests that this petitioner has received pecuniary benefit of Rs.10,00,000/- on 19.08.2010 and Rs.5,00,000/- on 20.11.2010, which is also reflected in the Bank statement of SMVSSL, Sabour, Bhagalpur. Learned counsel for the CBI further submits that the petitioner is one of the main conspirator and in support of his submissions he relies on paragraph nos. 21, 22, 42, 62, 72, 75, 77, 126, 128, 133 and 134 of the case diary.

8. The learned counsel for the CBI also relied upon some of the celebrated judgments of the Hon'ble Supreme Court rendered in the case of **Kehar Singh & Ors Vs. State (Delhi Admn.)**, since reported in **AIR 1988 SC 1883** as also in the case of **Nimmagadda Prasad Vs. C.B.I., Hyderabad**, since reported in **(2013) 7 SCC 466**.

9. In response to the aforesaid submissions, learned counsel for the petitioner submits that the Hon'ble Supreme Court in the case of **Sanjay Chandra Vs. C.B.I.**, reported in **(2012) 1 SCC 40** (2G scam case) while allowing the bail application of the applicant has taken a view that since investigation has already been completed and charge-sheet is already filed, therefore, the presence of the appellant in custody

may not necessary for further investigation and granted bail to the appellant, pending trial.

10. Having considered the submissions made on behalf of the parties, this Court finds that the learned counsel for the CBI has not denied that the investigation of the present case is already completed and further no material has been brought on record to show that his release would cause any impediment in speedy disposal of the trial.

11. It is also taken note of the fact that the Hon'ble Supreme Court has been pleased to grant bail to the co-accused, namely, Pankaj Kumar Jha by taking into account the period of his incarceration and factum of investigation being complete and further on relying upon the aforesaid order of the Hon'ble Supreme Court, the other co-accused persons have also been granted bail by the different learned coordinate Benches of this Court and moreover, the trial is not likely to be concluded in near future and this petitioner is in custody since 11.09.2019 and remanded in this case on 02.09.2020, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of Special Judge, C.B.I.-II, Patna in connection with R.C. No. 13/S/2018, giving rise to

Spl. Case No. 08 of 2020:

(i) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the learned court below shall be at liberty to cancel the bail bond of the petitioner.

(ii) One of the bailors shall be resident of the territorial jurisdiction of the learned court below,

(iii) The petitioner shall not leave the country without permission of the learned trial court.

(iv) 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 bonds 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.

(Harish Kumar, J)

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