

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44890 of 2021

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

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Sarita Jha W/o Sri Mithilesh Pathak R/O Chhoti Hat, Brahman Tola, Sabour,
P.S. - Sabour, Dist. - Bhagalpur. Permanent Address - Village - Bharko, P.S.-
Amarpur, Dist. - Banka.

... .. Petitioner/s

Versus

The Central Bureau of Investigation, New Delhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Advocate

For the C.B.I. : Ms. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 22-08-2022 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with RC 10(A)2018, giving rise to Spl. Case No. 11 of 2020, arising out of Tilakmanjhi (Bhagalpur) P.S. Case No. 753 of 2017 registered for the offence under Sections 120B, 409, 420, 467, 468 and 471 of the Indian Penal Code and Sections 13(2) and 13(1) (c)(d) of the Prevention of Corruption Act, 1988.

The accused/petitioner is named in the F.I.R. and is in custody since 22.08.2020.

The allegation against the petitioner is to misappropriate a total sum of Rs.17,80,50,000/- (Rupees Seventeen



Crore Eighty Lakh Fifty Thousand) during the period of 2007 to 2008 from different accounts of District Magistrate, Bhagalpur to different accounts of 'Srijan Mahila Vikash Sahyog Samiti Ltd.' (SMVSSL) by using 17 cheques bearing false signature of District Magistrate, Bhagalpur, having specific allegation to issue those cheques, alongwith other co-accused, namely, Late Smt. Manorama Devi and Smt. Subhlaxmi Prasad, in connivance with bank officers.

Learned counsel appearing on behalf of the petitioner submitted that petitioner happens to be an employee of SMVSSL, where she has been authorized by the Governing Body to issue cheques on behalf of the committee, without having any idea/background of the transactions. It is submitted that petitioner is involved in 22 cases, out of which she is on bail in 21 cases, where the allegation is of almost similar nature. It is further submitted that the name of the petitioner surfaced during the course of investigation, only for the reason that she was the office bearer of SMVSSL. It is pointed out that Apex Court in the case of Pankaj Kumar Jha in Cr. Appeal No. 484 of 2020 dated 17.07.2020, granted bail after noticing that investigation in the case is complete and the trial is not likely to be concluded in the near future. It is further subitted that it was not the C.B.I.,



who arrested this petitioner during investigation, rather it was the accused, who had requested the learned Trial Court for her remand in the present case, despite in custody for so many years. It is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence. While concluding the argument, it is submitted that by taking note of all allegations in totality, in the background of legal proposition as laid by Hon'ble Supreme Court, while deciding the matter in ***Nim-magadda Prasad Vs. Central Bureau of Investigation reported in (2013) 7 SCC 466***, this is a fit case to grant bail to the petitioner, where paragraph no. 24 of the judgement, observed as:

“24. While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the



public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the Court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

Learned senior counsel, Mrs. Nivedita Nirvikar, appearing on behalf of the C.B.I., while opposing the prayer of bail, submitted that there is specific allegation against this petitioner is to issue cheques on behalf of SMVSSL. In support of the submissions, learned senior counsel relied upon paragraph no. 16.3.9. of the chargesheet, where it is categorically stated that how this petitioner was involved in scam of Rs.17,80,50,000/-. Learned senior counsel fairly conceded that investigation of this case is complete, for which chargesheet has



been submitted against this petitioner.

In view of the facts and circumstances as mentioned above, as despite available in custody for long three years, petitioner was not remanded in this case by C.B.I., rather she herself requested to the Trial Court to remand her in this case, where she is in custody since 22.08.2020, in the backdrop that investigation in this case is complete, for which chargesheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with RC 10(A)2018, giving rise to Spl. Case No. 11 of 2020, arising out of Tilakmanjhi (Bhagalpur) P.S. Case No. 753 of 2017 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I.-II, Patna/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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