IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46486 of 2021

Arising Out of PS. Case No.-7 Year-2018 Thana- C.B.I CASE District- Patna

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Tapan Kumar Roy @ Tapan Roy S/O Sri Phanindra Chandra Roy Resident Of Mohalla - Vivekanand Colony Bhatta Bazar, Purnia Bihar At Present Bob Regional Office, Valsad Region, Mahalaxmi Tower, Tithal Road, Valsad, Gujrat.

... ... Petitioner/s

Versus

The Superintendent of Police CBI/ACU-V/AC-II, New Delhi Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the CBI	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Mr. Rishabh Mishra, Advocate
		Mr. Krishna Murari, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR

ORAL ORDER

6 19-09-2022 Heard learned counsel for the parties.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 409, 420, 467, 468, 471, 120(B), 34 of the Indian Penal Code.

The prosecution case as per F.I.R is that a cheque book of 10 leaf was issued against the account of DDC (Indira Awas Yojna) on 07.07.2008 to which the petitioner was maker and Sri. A.C. Ghadai, the then Branch Manaer was checker. It is alleged that by using one leaf of the said cheque book, an amount of Rs. 7,50,00,000/- was illegally withdrawn from the said account of DDC (Indira Awas Yojna) and transferred in the account of Srijan Mahila Sahyog Samiti Limited.

It is submitted by learned counsel for the petitioner that petitioner is innocent and he has falsely been implicated in this case without any reliable material collected during investigation against him. The petitioner categorically denied the allegation of criminal conspiracy and offence relating to public servant, criminal breach of trust, cheating, forgery of the valuable security for cheating and using as genuine forged document etc. So far as issuance of a cheque book of 10 leaf is concerned, it is humbly submitted by learned counsel for the petitioner that petitioner is the maker and the then Branch Manager is the checker and the same has been duly entered in the computer by the petitioner against the said account of DDC (Indira Awas Yojna) for which, he is duty bound. It is also submitted that petitioner was posted at the said branch from 09.10.2006 to 14.08.2009 and thereafter transferred to some other branch. The petitioner had no way concerned with the said branch after his transfer. However, after lapse of more than eight years, if it is found that requisition slip for the alleged issuance of cheque book is not available in the branch, the petitioner cannot be held responsible for missing of the requisition slip. At the time of issuance of the cheque book, the petitioner duly entered the entry of issuance of cheque book in the computer and handed over the same to the then Branch Manager, the checker/verifier of the same. The petitioner has an unblemished carrier and in his whole service tenure, not a single complaint has been registered against him. So far as transfer of Rs. 7,50,000,00/- from the account of DDC (Indira Awas Yojna) to the account of Srijan Mahila Sahyog Samiti Limited is concerned, it is the case of the prosecution that maker of the said transaction is Sri. Sant Kumar Sinha and checker/verifier is the then

Branch Manager Sri. A.C. Ghadai. The petitioner is no way connected with the said transaction of Rs. 7,50,000,00/-. It is also submitted that petitioner is neither maker nor the checker of the alleged cheque when the same is produced for withdrawal of alleged amount of Rs. 7,50,000,00/- from the said account of Srijan Mahila Sahyog Samiti Limited. The maker of the said transaction was Sri Sant Kumar Sinha and checker was Sri A.C. Ghadai the then Branch Manager. It has therefore been submitted that petitioner has become the victim of system and false implication through perfunctory investigation, even without reliable accusation surfaced during the investigation.

Mrs. Nivedita Nirvikar, learned senior advocate appearing on behalf of the C.B.I has vehemently opposed the prayer for anticipatory bail of the petitioner and submitted that the petitioner, worked as Officcer in Bank of Baroda, Bhagalpur Branch had fraudulently issued cheque book on 07.07.2008 through which an amount of Rs. 7,50,000,00/- was illegally transferred from the account of DDC (Indira Awas Yojna) to the account of Srijan Mahila Sahyog Samiti Limited. The investigation reveals that the said cheque was never issued to the office of DDC as per records of DDC. The said cheque bears forged signature of the then DDC. The record of DDC also reveals that the alleged cheque book was never issued and delivered to the DDC and the DDC office also had not sent any requisition slip for issuance of the cheque book whereas as per instructions, requisition slip/application from the account holder is mandatory for issuing cheque book for the account. Further, the staff should receive the signature of the customer as acknowledgment on cheque book issue register but no entry/acknowledgment is available on the cheque book issue register. The cheques were later issued by Srijan Mahila Vikash Sahyog Samiti Limited (in short SMVSSL) to divert money from the government accounts. Therefore, it proves the criminal intention of the petitioner, the then Officer, Bank of Baroda, Bhagalpur Branch who issued the above cheque series without any request of DDC Office. The investigation further reveals that this petitioner was maker for reverting back the funds of Rs. 22,000,00/- from the account of DDC to the account of Srijan Mahila Vikash Sahyog Samiti Limited and therefore, it is established that the petitioner was very much aware about the fraud and diversion of government funds in the accounts of Srijan Mahila Vikash Sahyog Samiti Limited and he actively indulged in the criminal conspiracy hatched amongst accused persons resulting this scam.

Considering the fact that petitioner is neither maker nor checker of the cheque through which Rs. 7,50,000,000/- was transferred and much before the said transaction, the petitioner was transferred to some other place, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I-II, Patna in connection with CBI/AC-II/New Delhi RC. 217 2018A 0007(Bhagalpur Kotwali (Tilka Manjhi) P.S. Case No. 545 of 2017), subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Sunil Kumar Panwar, J)

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