IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55997 of 2021

Arising Out of PS. Case No.-15 Year-2017 Thana- C.B.I CASE District- Patna

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Navin Kumar Saha @ Nabin Kumar Saha, Son of Bhim Narayan Saha, Resident of Village- Babhangama, P.S.- Barahat, District- Banka, at Present Residing at Hope Anand, Flat No. 205, West Boring Canal Road, Patna

... ... Petitioner/s

Versus

The State of Bihar through C.B.I. Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate

For the Opposite Party/s : Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

5 08-09-2022 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. Pranav Kumar Jha, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel for the C.B.I.

3. The petitioner seeks regular bail, who is in custody in connection with R.C. No. 15/A/2017, giving rise to Spl. Case No. 13 of 2020, arising out of Kotwali (Adampur) P.S. Case No. 508 of 2017, for the offences punishable under Sections 120B/34, 409, 420, 467, 468, 471 of the Indian Penal Code and Sections 13(2) r/w 13(1(c) & 13(1)(d) of the Prevention of Corruption Act, 1988.

4. The prosecution case is based on a written report filed by the Branch Incharge of Bhagalpur Central Co-operative Bank Ltd., Bhagalpur alleging therein that during the period 2012-14, the officials of Indian Bank, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.30,25,43,630/- from the Current Account No.6084978909 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur Branch maintained with the Indian Bank Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-14, the proceeds of five cheques worth Rs.20,00,00,000/- (Twenty Crore) issued by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No.6084978909 maintained with the Indian Bank, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount. Further during the period 2012-17, the officials of the Bank of Baroda, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.17,94,85,446.83 from the Current Account No.10010100013202 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur Branch maintained with the Bank of Baroda, Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-17, the proceeds of nine cheques, worth

Rs.30,95,28,000/-, issue by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No. 10010100013202, maintained with the Bank of Baroda, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount.

5. Learned counsel appearing on behalf of the petitioner submits that the petitioner has been implicated in this case only because he was posted as Branch Manager, Bank of Baroda, Bhagalpur for the period 04.07.2008 to 20.06.2011 and after about six years of his transfer the instant case has been instituted. He next submits that when the petitioner was posted as Branch Manager, Bank of Baroda, Bhagalpur, there was no complaint from any authority of State and there was no audit objection and there was no complaint regarding dishonour of cheques also issued by the State authorities during the said period. However, after six years of the transfer of the petitioner from Bhagalpur, the instant F.I.R. was instituted.

6. He next submits that from the materials on record, it would be evident that the name of the petitioner does not figure in the first set of charge-sheet, but in the supplementary charge-sheet filed against 18 accused persons, the petitioner has

been named. He next submits that the petitioner is not the beneficiary in the entire alleged crime, as during the course of investigation, not a single penny has been seized/recovered either from the account of petitioner or from his possession. He next submits that the petitioner being the Branch Manager, Bank of Baroda, Bhagalpur not directed any staff of the Bank to pass/divert any cheque/withdrawal slips which comes for clearance and as per Rules, the petitioner has committed no wrong and he had performed his duty to the best of his ability and full satisfaction to his higher authority. He further submits that the present case is based on documentary evidence and now the charge-sheet having been filed on 16.06.2020 itself, keeping the petitioner behind the bar would serve no further purpose. It is also submitted that one of the co-accused, namely, Pankaj Kumar Jha, who happened to be the then Managing Director of the Bhagalpur Central Co-operative Bank has been granted bail by the Hon'ble Supreme Court in Cri. Appeal No. 484 of 2020, arising out of SLP (Cri) No. 1530 of 2020 vide order dated 17.07.2020. Following the aforesaid order of the Hon'ble Supreme Court other co-accused, namely, Hari Shankar Upadhyay, Subrato Das, Atul Raman and Ram Krishna Jha, have been granted bail by the different learned co-ordinate

Benches of this Court.

7. It is next submitted that with regard to the present case, the investigation is completed and charge-sheet has already been submitted and any further interrogation is not required. However, this petitioner is in custody since 14.08.2019, he has been remanded in the present case on 19.10.2020.

8. On the other hand, learned senior counsel for Central Bureau of Investigation (CBI) vehemently opposes the bail application and submits that the role of the petitioner in investigation has revealed that while he was working as Manager, Bank of Baroda, Bhagalpur Branch during 28.07.2008 to 15.01.2010 and Sr. Manager during 16.01.2010 to 26.05.2011 and 27.05.2011 to 21.06.2011, Chief Manager during 24.07.2017 to 01.04..2018 and 02.04.2018 to 08.05.2018, actively participated in cheating and misappropriating the funds of the Bhagalpur Central Co-operative Bank Ltd., in criminal conspiracy with other officials of the Bhagalpur Central Co-operative Bank Ltd., Bank of Baroda, Bhagalpur and others, including the officials of SMVSSL, Sabour, Bhagalpur.

9. It is also submitted that during the course of investigation sufficient oral and documentary evidence have

come and on being found prima facie involvement of the petitioner, a supplementary charge-sheet has been submitted against him. 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**.

10. 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.

11. 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, apart from the fact that there is no allegation that the petitioner is indulged in tampering with the evidence and not co-operating in the investigation of any other case or in the trial.

12. 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 incarceration of the petitioner 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 28.11.2019 and remanded in this case on 19.10.2020, 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. 15/A/2017, giving rise to Spl. Case No. 13 of 2020, arising out of Kotwali (Adampur) P.S. Case No. 508 of 2017 with the following conditions:

(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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