IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61760 of 2021

Arising Out of PS. Case No.-7 Year-2018 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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with

CRIMINAL MISCELLANEOUS No. 13793 of 2022

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

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Bipin Kumar @ Bipin Kumar Sharma, S/o Sri Kartik Kumar, Resident of Hanuman Path Tilkamanjhi, Near State Bank of India, P.S. - Tilkamanjhi, Dist. Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau Of Investigation (C.B.I.) New Delhi.

... ... Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 61760 of 2021)

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

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

(In CRIMINAL MISCELLANEOUS No. 13793 of 2022)

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

For the Opposite Party/s : Mrs. Nivedita Nirvikar, Sr. Advocate (SC, CBI)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

6 11-08-2022 Since both the cases arise out of Special Case No. 04 of 2020 (R.C. Case No. 07/A/2018), as such, they have been heard together and are being disposed of by this common order. In Cr. Misc. No.61760 of 2021, arguments were heard even on 03.08.2022.

Heard learned counsels for the petitioners and learned counsels for the Central Bureau of Investigation.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with Special Case No. 4 of 2020 (R.C Case No.07/A/2018), registered for the alleged offences under Sections 409, 419, 420, 467, 468, 471, 120(B), 34 of the Indian Penal Code and Sections 13(2), 13(1) (c), 13 (1) (d) of the the Prevention of Corruption Act, 1988.

As per prosecution case, the petitioner- Navin Kumar Saha was the Branch Manager in Bank of Baroda, Bhagalpur Branch from 04.07.2008 to 20.06.2011. During his tenure at Bhagalpur Branch of Bank of Baroda, he illegally diverted the proceeds of two cheques (Cheque No. 008297 of Rs. 50 lacs and Cheque No. 008300 of Rs. 2 crore), to the bank account of M/s SMVSSL. These cheques bear the forged signature of the then DDC and Director of DRDA, Bhagalpur and even these cheques were never issued to the DDC Office, Bhagalpur. When he credited the proceeds of these cheques to the bank account of M/s SMVSSL, a message "cheque not issued" on the screen was reflected each time and he exempted the said warning and illegally diverted Rs. 2.5 crores from the account of DDC, Bhagalpur to the account of SMVSSL. There is documentary evidence that is exception report of BOB, System Division that the system alert were appeared in two occasions when the both the above cheques were illegally passed by this petitioner- Navin Kumar Saha. There is a documentary evidence that this petitioner passed 16 transactions for Rs. 3.70 crores to revert back the funds in DDC account on various dates so that the cheques issued by DDC would not be dishonored and the conspiracy could not be revealed. The petitioner- Navin Kumar Saha in conspiracy with Smt. Manorama Devi stated to be the kingpin of this multi crore scams misused his official position by authorizing illegal transfer of funds from government account to the account of SMVSSL. Firstly, he took the cheques earlier surrendered by Shri Arup Kumar Sinha (account holder) from Branch and misused the same for the purpose of allowing the illegal transfer. The handwriting on these cheques was found to be one Shri N.V. Raju who was in close association with Smt. Manorama Devi. The petitioner- Navin kumar Saha has played a major role in criminal conspiracy of diversion of government fund to the account of SMVSSL.

The petitioner- Bipin Kumar was a very close associate of Late Smt. Manorama Devi. He used to invest the ill-gotten money from SMVSSL account for purchasing flats in the name of public servants. He was one of the main conspirators of SRIJAN scam, he used to visit Late Smt. Manorama Devi on regular basis. He received pecuniary benefits from SMVSSL for such services rendered to Late Manorama Devi by him. He could not justify the funds given to him from SMVSSL account. He had booked 20 flats in the capacity of Agent of Gardenia India Pvt. Ltd. in the names of various persons including Smt. Ranjana Sinha, w/o Sant Kumar Sinha, Smt. Puja Kumari, W/o Amrendra Kumar Yadav and Smt. Shashilata Mishra, w/o Deo Shankar Mishra. Though, he stated that he had taken some loan from SMVSSL, but he could not produce the loan agreements for the same. The employee of Gardenia confirmed that verbal offer for being Agent of Gardenia was given to Shri Bipin Kumar. During investigation, it came to light that the petitioner Bipin Kumar invested the ill-gotten money of SMVSSL by giving loan, booking flats/shops and the agreement was signed by him as an agent. The flats booked in the name of Government/Public servants from the funds of SMVSSL were without the signatures of applicant against whose name the flats were booked. The petitioner Bipin Kumar is also having flat in the Ruby-I, Glamour-I, Majestic Constructions, Patna and shops in 1st Mall Hotel, Bhagalpur from the funds transferred from SMVSSL. During investigation, it came that Rs. 4,64,000/- has been transferred from SMVSSL account for pecuniary benefit of this petitioner. The aforesaid payments were made from the account of SMVSSL towards goods/articles received by M/s Fashion Point and Footwear Point, Bhagalpur and this petitioner is the proprietor of the firm.

Learned counsel appearing on behalf of the petitioner-Navin Kumar Saha submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner though not named in FIR No. 513/2017, but has been made an accused in Special Case No. 04 of 2018. There is no specific allegation against this petitioner in the charge sheet. The petitioner was posted as a Branch Manager, Bank of Baroda, Bhagalpur for the period from 04.07.2008 to 20.06.2011 and after about 6 years from his transfer, the instant FIR has been instituted against the officials of Bank of Baroda and Others for the reasons best known to them. The petitioner is neither the maker nor the Chequer of any Negotiable Instrument, he was only performing his duty. Moreover, whatever amount has been diverted from the account of DDC, were credited into that account. So there may be some irregularity but there is no loss to the exchequer. Learned counsel further submits that the charge sheet has already been submitted in this case and there is no likelihood of commencement of trial in near future. The charge sheet suggests that the only accusation of conspiracy has been levelled against the petitioner whereas the actual beneficiary was co-accused Manorma Devi, who was running the NGO. Learned counsel for the petitioner further submits that several co accused persons have been granted bail. The co-accused Ram Krishna Jha has been granted bail by a Coordinate Bench of this Court vide order dated 27.05.2020 passed in Cr. Misc. No. 33334 of 2019. Another co-accused namely Subrata Das has also been granted bail by a Coordinate Bench of this Court vide order dated 16.09.2020 passed in Cr. Misc. No. 22914 of 2020. The co-accused Pankaj Kumar Jha has been granted bail by the Hon'ble Supreme Court vide order dated 17.07.2020 passed in Cr. Appeal No. 484 of 2020 (Arising out of SLP (Crl) No. 1530 of 2020). The co-accused Sarita Jha has also been granted bail by a Coordinate Bench of this Court vide order dated 04.03.2020 passed in Cr. Misc. No. 60402 of 2019. The other co-accused persons have also been granted bail in Cr. Misc. Nos.40816 of

2019 and 21698 of 2020. Learned counsel further submits that this petitioner is in custody since 23.01.2020.

Learned counsel appearing on behalf of the petitioner-Bipin Kumar submits that the petitioner is innocent and has been falsely implicated in this case. The petitioner though not named in FIR No. 513/2017, but has been made an accused in Special Case No. 04 of 2018. There is no specific allegation against this petitioner in the charge sheet. The only allegation against this petitioner is that he was close associate of Late Manorma Devi and by referring some transaction with the banking unit of Srijan, the investigating agency has tried to make out a case of involvement of this petitioner as a conspirator on the basis of alleged transactions. Learned counsel further submits that so far as the allegation of booking flat of the petitioner in the name of his wife, namely Rubi Kumari in M/s Gardenia Indian Pvt. Ltd., is concerned, it it stated that the wife of the petitioner namely Ruby Kumari was member of SMVSSL and was also having an account in SMVSSL and had taken loan from the banking unit of Srijan for purchase of flat in Gardenia India and as such the same cannot be said to be any kind of gain from Scam and the same has also been mentioned in the ITR of the petitioner's wife filed prior to institution of present case.

Learned counsel further submits that the charge sheet has already been submitted in this case and there is no likelihood of commencement of trial in near future. The charge sheet suggests that the only accusation of conspiracy has been levelled against the petitioner whereas the actual beneficiary was co-accused Manorma Devi, who was running the NGO. Learned counsel for the petitioner further submits that several co accused persons have been granted bail and this petitioner is in custody since 26.11.2021.

Learned Standing Counsel appearing on behalf of C.B.I. opposes the prayer for bail submitting that the petitioner-Navin Kumar Saha in conspiracy with Smt. Manorama Devi misused his official position by authorizing illegal transfer of funds from government account to the account of SMVSSL. The petitioner- Bipin Kumar was a very close associate of Late Smt. Manorama Devi. He used to invest the ill-gotten money from SMVSSL account for purchasing flats in the name of public servants. He was one of the main conspirators of SRIJAN scam, he used to visit Late Smt. Manorama Devi on regular basis. He received pecuniary benefits from SMVSSL for such services rendered to Late Manorama Devi by him. During investigation, it came to notice that Rs. 4,64,000/- has been transferred from SMVSSL account for pecuniary benefit of this petitioner. The aforesaid payments were made from the account of SMVSSL towards goods/articles received by M/s Fashion Point and Footwear Point, Bhagalpur and this petitioner is the proprietor of the firm. Learned counsel further submits that there is strong apprehension that the petitioners may influence the witnesses, if they are enlarged on bail at this stage of trial.

Having regard to the submissions made hereinabove and considering the facts that the charge sheet has been submitted in this case and there is no likelihood of the conclusion of the trial in near future coupled with the fact that several other co-accused persons have been granted bail as also considering the period of the custody of the petitioners, the petitioners above named are directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge-II, C.B.I., Patna in connection with Special Case No. 4 of 2020 (R.C. Case No. 07/A/2018), subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

(i) One of the bailors will be the close relative of the petitioners.

(ii) The petitioners will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioners will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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