IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71686 of 2021

Arising Out of PS. Case No.-18 Year-2015 Thana- C.B.I CASE District- Patna

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Surya Mohan Jha S/O Late Chunchun Jha Staff Officer (Retd.) Bank of India, R/o Pindaruch (Paschim Tola), P.S.- Pindaruch, District- Darbhanga. At present Resident at- Adarsh Vihar Colony, Rukanpura, P.S.- Rupaspur, District- Patna

... ... Petitioner/s

Versus

The Union of India Through Central Bureau of Investigation New Delhi.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Assisted by learned A.K. Lal, Sr. Advocate.
For the Opposite Party/s	:	Mr. Bipin Kumar Sinha, APP.
For the Bank of India	:	Mr. Ajit Kumar Sinha, Advocate.
For the C.B.I.	:	Mr. Avanish Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

9 18-07-2022 Heard Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner, Ajit Kumar Sinha, learned counsel for the Bank of India, Mr. Avanish Kumar Singh, learned counsel for the Central Bureau of Investigation and learned Additional Public Prosecutor for the State.

A counter affidavit has been filed on behalf of the

Bank of India, after serving a copy to the learned counsel for the petitioner.

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

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Special Case No. 02 of 2017, R.C. Case No. 18 (A) of 2015 registered for the offences punishable under Sections 120(B) read with 420, 467, 468, 471 and 477A of the Indian Penal Code and Section 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988.

As per the prosecution case, it is alleged that during the period of September, 2013 to 2015 the petitioner, who was working as Staff-Officer in the Bank of India, Uchki Bazar Branch, Muzaffarpur, entered into criminal conspiracy with some unknown persons and affected illegal financial transactions by using the login I.D. and Password of other bank officials and in this way, he caused wrongful lost to the Bank to the tune of Rs. 6,36,871/- and corresponding wrongful case himself and unknown co-conspirator.

Learned senior counsel appearing on behalf of the petitioner submitted that as per the rules and procedure prescribed by the bank every officer was being allotted I.D. Password and Finacle Password individually, which is confidential one and an officer is under obligation not to disclose or make open his password to any of the employees of the bank and as such, any financial transaction can be processed by any officer by using his own I. D. and Finacle Password in confidential. It is further submitted that the transactions to the account of the petitioner is in relation to the P. L. Salary Account and Salary Account and as the petitioner was functioning as Staff-Officer of the Bank during the aforesaid period, these transactions are only towards leave travel and salary of the petitioner and no other payment has been transacted towards his salary and P. L. Salary for the said period. It is next submitted that the petitioner is aged about 65 years and a retired officer of the bank and during the pendency of this application, the bank has departmentally proceeded against him and the petitioner himself offered to the bank to realize the alleged defalcated amount of Rs. 6,36,871/- from the money which he was having with the bank as well as pension accordingly. Ultimately the departmental proceedings resulted into punishment of compulsory retirement and reduction of pension. It is lastly submitted that the investigation is already completed and the charge-sheet has been submitted and this petitioner is in custody since 09.08.2021. He also relied upon one of the judgement rendered by the Hon'ble Supreme Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, reported in A.I.R. 2012 (SC) Page 830, especially paragraph nos. 14 and 28 of the said judgement.

On the other hand, learned counsel for the Bank of India vehemently opposes the bail application and submits that the petitioner himself admitted his complicity in the present crime and in support of his submission the confessional statement of the petitioner containing in his letter dated 20.01.2015 market as an exhibit in the departmental proceedings has been brought on record by way of annexure R-1 to the counter affidavit. It is next submitted that the lost caused to the bank as quantified in the articles of charge served upon the petitioner has not been recovered in fact, reduced pension given to the petitioner is as per the Pension Regulation of the Bank of India and it cannot be considered as recovery of adjustment for loss caused to the bank.

Learned counsel for the Central Bureau of Investigation opposes the bail application and supported the submissions made on behalf of the Bank of India.

Having considered the submissions made on behalf of the parties and taking into account the fact that the present matter relates to financial transaction, which ought to be proved in a full-fledged trial and moreover, the investigation of the crime is already completed and the charge-sheet has been submitted and further this is not the case of prosecution that release of the petitioner would result into tampering of the evidence or hampering of the trial in any manner and moreover, this petitioner is in custody since 09.08.2021, having a man of fair antecedent, let the petitioner, above named, 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 learned Special Judge-I, C.B.I., Patna in connection with Special Case No. 02 of 2017, R.C. Case No. 18 (A) of 2015, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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