IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58076 of 2021

Arising Out of PS. Case No.-19 Year-2015 Thana- C.B.I CASE District- Patna

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1. Vinay Kumar S/O Kapildeo Singh R/O Village- Pawa, P.S.- Deep Nagar (Biharsharif), Distt.- Nalanda
2. Biharu Prasad @ Bihari Kumar S/O Sita Ram Singh @ Mahendra Prasad R/O Village- Bhadari, P.S.- Silav, Distt.- Nalanda

... ... Petitioner/s

Versus

The State Of Bihar Through C.B.I., Patna Bihar

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 69534 of 2021

Arising Out of PS. Case No.-19 Year-2015 Thana- C.B.I CASE District- Patna

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Pramod Kumar Singh @ Pramod Kumar Son Of Late Munni Lal Singh Resident Of Mohalla - Bank Colony, Opposite Ayodhaya Prasad Mahila College, Meharpar, Biharsharif, P.S.- Laheri, Distt.- Nalanda At Present Proprietor Of M/S Anukul Agro Agency, Chakarshalpur More, Bypass Road, N.H.- 31, Biharsharif, Nalanda.

... ... Petitioner/s

Versus

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

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 1109 of 2022

Arising Out of PS. Case No.-19 Year-2015 Thana- C.B.I CASE District- Patna

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Nitish Kumar Son Of Sri Pramod Kumar Resident Of Mohalla - Bank Colony, Opposite Ayodhaya Prasad Mahila College, Meharpar, Biharsharif, P.S.- Laheri, Distt.- Nalanda At Present Managing Director Of M/S Anukul Agro Agency, Chakarshalpur More, Bypass Road, N.H.- 31, Biharsharif, Nalanda.

... ... Petitioner/s

Versus

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

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 5884 of 2022

Arising Out of PS. Case No.-19 Year-2015 Thana- C.B.I CASE District- Patna

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Chandan Kumar Jha S/O Deo Narayan Jha R/O Village And Post- Bangarhatta, Singhia, District- Samastipur

... ... Petitioner/s

Versus

1. The Union Of India Through The C.B.I. New Delhi
2. The Superintendent of Police, C.B.I., S.K. Singh Path, Bailey Road, Patna Bihar

... ... Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 58076 of 2021)

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Adv.
		Mr. Vijay Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr.Avinash Kumar Singh, Spl, P.P., CBI

(In CRIMINAL MISCELLANEOUS No. 69534 of 2021)

For the Petitioner/s	:	Mr.Vijay Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr.Avinash Kumar Singh, Spl, P.P., CBI

(In CRIMINAL MISCELLANEOUS No. 1109 of 2022)

For the Petitioner/s	:	Mr.Vijay Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr.Avinash Kumar Singh, Spl, P.P., CBI

(In CRIMINAL MISCELLANEOUS No. 5884 of 2022)

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv.
		Mr. Shashi Shekhar Tiwary, Adv.
For the Opposite Party/s	:	Mr.Avinash Kumar Singh, Spl, P.P., CBI

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

14 27-02-2023 Heard Mr. Rama Kant Sharma, Senior counsel and Mr. N.K. Agrawal, Senior counsel assisted by Mr. Vijay Kumar Sinha and Mr. Shashi Shekhar Tiwary, learned counsel for the petitioners and learned Mr. Avinash Kumar Singh, learned Spl.P.P. for the CBI.

Learned counsel for the petitioners undertakes to remove the defects, if any, within three weeks.

The petitioners are apprehending their arrest in a case registered for the offence punishable under Sections 120B, 420, 467, 468, 471, 477(A) of the Indian Penal Code and Sections 13(2) r/w 13(1) (d) of the P.C. Act.

All these petitioners in a deep rooted conspiracy and with connivance to each other, are said to have committed some fraudulent transactions and sanctioned loan on the basis of altered and fabricated Land Possession Certificate. In this nefarious games, about Rs. 2.73 crores were credited in the account of 328 persons, out of which the amount of Rs. 1.83 crore were credited in 12 accounts of middleman/ family members account, causing huge loss to government exchequer.

Learned counsel for the petitioners submits that the petitioners are innocent, not named in the FIR and have been falsely implicated in this case. He submits that petitioners Vinay Kumar and Biharu Prasad are the staff of M/S Anukul Agro Agency. Their role was limited to follow orders of their owner and they are not related with any fraudulent transaction. The amount shown in the account of petitioners are not concerned with them and in fact the amount shown to be deposited in the account of petitioners were later on transferred to the account of M/S Anukul Agro Agency, thus, they are not the beneficiaries nor involved in the alleged offences. They have been made accused in this case during course of investigation. Petitioner Pramod Kumar Singh is the Proprietor of M/S Anukul Agro Agency. It is submitted that his whole family was roped in the present case. The petitioner Nitesh Kumar is the Managing

Director of M/S Anukul Agro Agency and he is son of accused Pramod Kumar Singh. It is submitted that petitioner Nitish Kumar, being the owner of Power Tiller Agency, was entitled to receive the amount of Power Tiller either in his own account or in the account of firm i.e. M/S Anukul Agro Agency or in the account of family members. The petitioner Chandan Kumar Jha is the Branch Manager of the Bank. A departmental proceeding was initiated against him on the basis of same set of charges and he was found guilty of not making due diligence in disbursements of loan for which he was compulsorily retired from service. Thereafter, he filed appeal before the General Manager (Appellate Authority) in which charges against the petitioner were found false and he was reinstated in the bank service on 25.10.2017. It is further submitted that none of the borrowers came before the Bank and claimed that their loan amount was misappropriated by the petitioners or any of family members of Pramod Kumar Singh. As the CC Account of M/S Anukul Agro Agency was in Corporation Bank, so the informant has made allegation that Nitish Kumar acted as middleman for grant of KCC loan to borrower. It is further submitted that the sanctioning loan is the duty of Branch Manager and all KCC loan documents were verified and accordingly Field Officer and

Branch Officer filed claim before the government for getting subsidy, thus there cannot be any situation for these petitioners to involve into the alleged offence. It is also submitted that the amounts which were deposited in the account of Priya Kumari, Sima Kumari and Gita Devi were transferred to account of M/S Anukul Agro Agency immediately. There is no evidence whatsoever with the prosecution to support the allegation. Learned counsel for the petitioners lastly submitted that the petitioners have no criminal antecedent as stated in para-3 of these applications.

By way of supplementary affidavit, it has been submitted on behalf of the petitioners that the borrowers admitted to have received the loan in question while on the other hand the prosecution says that the said loan amount has fraudulently been embezzled. Petitioner Pramod Kumar Singh is the owner of a proprietorship firm and an authorized distributor of a Power Trailers Tractors and he used to do all his business transactions through Corporation Bank, Biharsharif, where other members of his family also have accounts. Being a proprietorship organization other family members also participate in the business as per the requirement. The loan amount in question is public money but the said amount has not been embezzled. The concerned borrowers are ready to pay KCC loan amount but the bank has been refusing to accept their installments due to the present case. Learned senior counsel for the petitioners lastly submitted that the petitioners are ready to deposit the embezzlement amount, if Court permits.

Learned counsel for the C.B.I. opposed the prayer for bail and submitted that Chandan Kumar Jha, while posted as Branch Manager, Biharsharif, sanctioned and disbursed KCC loan to 296 borrowers aggregating total amount of Rs. 2.73 crores without physical presence of concerned borrowers, wherein aggregating total amount Rs. 1.83 crores were again credited into 12 accounts of middleman namely Nitish Kumar, his family members and two other persons. He did not follow the norms of sanction and disbursement of KCC loans. As per Corporation Bank Head Office Circular No. 530 of 2012 dated 21.09.2012, CCCK loan (KCC loan is called CCCK loan in Corporation Bank) may be sanctioned for the following purposes:

a. Short Term Credit requirement for cultivation of crops.

b. Post harvest expenses.

c. Produce marketing loan.

d. Consumption requirements of farmer household.

e. Working capital for maintenance of farm assets and activities allied to agriculture like diary animals, island fishery etc.

f. Investment credit requirement for agricultural and allied activities like pump sets, sprayer, diary animals etc.

Investigation further revealed that Nitish Kumar was managing M/S Anukul Agro Agency, Biharsharif, a dealer in Power Tiller, which was a proprietorship firm of his father Pramod Kumar Singh. He used to mobilize the borrowers and bring them to Branch Manager, Chandan Kumar Jha, where they were made to sign/affix thumb impressions on loan documents including blank loose cheque leaves. Chandan Kumar Jha did not conduct pre sanction inspection physically. None of the borrowers had visited the branch on the date of withdrawal of loan amount or received the loan amount in the branch. At a later date accused Nitish Kumar had given them various amounts ranging from 20 to 50 thousand rupees in cash.

The total amount of Rs. 1.84 crores were created into the following 12 accounts:-

Sl. No.	Name of account & A/c No.	Amount/Rs.

1.	M/s Ankul Agro Agency, Biharsharif, Prop. Promod Kumar, Father of Nitish Kumar. A/C No. CVPOD120002	45,00,000/-
2.	M/s Ankul Agro Agency, Biharsharif, Prop. Promod Kumar, Father of Nitish Kumar. A/C No. CBCA86	-
3.	Nitish Kumar, A/c No. CLSB120104	35,44,000/-
4.	Nitish Kumar, A/c No. CLSB130034	-
5.	Sima Kumari, W/o Nitish Kumar, A/c No. CLSB130031	50,05,000/-
6.	Sima Kumari, W/o Nitish Kumar, A/c No. CLSB130031	-
7.	Priya Kumari, Sister of Nitish Kumar, A/c No. CLSB130090	10,90,000/-
8.	Priya Kumari, Sister of Nitish Kumar, A/c No. SB6743	-
9.	Gita Devi, Mother of Nitish Kumar, A/c No.CLSB130091	29,74,000/-
10.	Gita Devi, Mother of Nitish Kumar, A/c No.SB6711	-
11.	Vinay Kumar, Employee of M/s Anukul Agro Agency, A/c No.SB6293	7,50,000/-
12.	Biharu Prasad, Employee of M/s Anukul Agro Agency, A/c No.SB8160	6,00,000/-
	Total	**1,84,63,000/-**

Investigation further revealed that no Power Tiller subsidy was given to Corporation Bank, Biharsharif Branch, during the year 2012 to 2014. Further, branch head also not claimed Power Tiller subsidy in the year 2012 to 2014 from

District Agriculture Office, Nalanda. After completion of investigation, Charge-sheet was filed before the learned Special Judge 1, CBI, Patna on 15.12.2018. It is submitted that out of 24 Land Possession Certificates (hereinafter referred to 'LPCs'), 20 LPCs were purportedly issued by the Circle Office, Katrisarai, 3 LPCs by Circle Office, Biharsharif and 1 LPC by Circle Office, Harnaut. Circle Office, Katrisarai intimated that out of 20 LPCs, 19 LPCs are altered/fabricated after being issued from Circle Office, Katrisarai and 1 LPC was not even issued by the office. Circle Office, Biharsharif also intimated that 03 LPCs are altered/fabricated after being issued from the Circle Office, Biharsharif. Similarly, the Circle Office, Harnaut, informed that LPC issued in the name of Janardan Prasad was not issued by the Circle Office, Harnaut and that the signature of Revenue Karmachari and the then Circle Officer, on the alleged LPC was a forged one. The panel advocated of the bank also intimated that he verified LPCs with respective Circle Office records and at the time of verification, the LPCs were not altered or fabricated. Learned counsel for the CBI lastly submitted that the bail application of the similarly situated co-accused has been dismissed by a coordinate Bench of this Court vide order dated 05.07.2022 passed in Cr. Misc. No. 55683 of 2021.

Considering the argument of the parties and from perusal of the records including the case diary, it is clear that the petitioners are involved in the present case, therefore, I do not find that it is a fit case for grant of anticipatory bail.

Hence, I am not inclined to enlarge the petitioners on bail. Accordingly, their prayer for anticipatory bail is rejected in connection with Special Case No. 51/18 R.C. 19(A) 15 pending before the learned Special Judge CBI-1, Patna.

(Anjani Kumar Sharan, J)

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