IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9919 of 2023

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

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PREM KUMAR SINHA Son of Late Rajendra Prasad Sinha Resident of Village- Pipra, P.S.- Garahni, District- Bhojpur

... ... 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 C.B.I. : Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

6 19-07-2023 Heard Mr. Pranav Kumar Jha, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel appearing on behalf of Central Bureau of Investigation.

2. Petitioner seeks bail, who is in custody since 19.10.2022 in connection with Special Case No.04 of 2020 arising out of R.C. Case No.07/A/2018, F.I.R. dated 12.06.2018 for the offences punishable under Sections 120(B), 409, 420, 467, 468, 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c) & 13(1)(d) of Prevention of Corruption Act, 1988.

3. According to prosecution case, the present case pertains to multi hundred crores of Srijan Scam. From perusal of charge sheet it appears that role of the accused-petitioner has emerged during the investigation. Investigation has revealed that

accused/petitioner Prem Kumar Sinha, the then Officer (Scale-I and Scale-II), Bank of Baroda, Bhagalpur while acting in furtherance of the conspiracy did not destroy the cheques as per policy/rules of the Bank, dishonestly. Accused Prem Kumar Sinha has closed the account of Sri Anup Kumar Sinha on 29.07.2008 as a checker. From, 47 surrendered cheques of Anup Kumar Sinha, two cheques bearing Nos. 8297 and 8300 amounto to Rs.50 lacs and Rs.2 carores respectively were fraudulently withdrawn by SMVSSL from the account of DDC with forged signatures. Accused Prem Kumar Sinha has also authorized seven transactions amounting to Rs.1.31 crores for reverting back funds from the account of SMVSSL to the account of DDC.

4. Learned counsel for the petitioner submits that petitioner was posted as Marketing Officer, Bank of Baroda, Bhagalpur Branch and prior to the Srijan Scam, he was a person with clean antecedent and after the Scam surfaced the petitioner came to be implicated in four cases including the present one.

5. Learned counsel for the petitioner further submits that petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation in the charge sheet. Petitioner is in between 28.11.2006 to 06.06.2010 was

posted as Marketing Officer/ Manager in Bank of Baroda, Bhagalpur Branch, Bhagalpur. The petitioner being Marketing Officer of Bank of Baroda at Bhagalpur in 2007 was entrusted or deputed to sale and develop third party product i.e. Life Insurance, Mutual Fund, General Insurance etc. and in the charge sheet there is specific allegation against the petitioner that when he was posted in Bank of Baroda, Bhagalpur Branch, Bhagalpur from February 2007 to June 2008 as Scale-I Officer and then as Scall-II in the same Branch from July 2008 to April 2010. He closed the account of Shri Anup Kumar Sinha on 29.07.2008 as a checker and did not destroy the cheque as per the policy/rules of the Bank. From 47 surrendered cheques of Shri Anup Kumar Sinha, two cheques bearing No.8297 for Rs.50 lacs and another cheque bearing No.8300 for Rs.2 carores were fraudulently withdrawn by SMVSSL from the account of DDC with forged signature and he also authorized seven transactions amounting back funds from the account of SMVSSL to DDC account. He further submits that it would appear from the F.I.R. at Page-21 that whatever the amounts diverted from the DDC account, were credited into the account of DDC, hence there is no loss to the State Ex-chequer.

6. Learned counsel for the petitioner further submits

that the petitioner was neither the checker of any Negotiable Instrument, he was only performing his duty, to pass the transaction submitted by the maker and if any cheque were deposited at the time of closure of account the duty of making request for cancellation of cheque in bank system is of maker of the transaction, so petitioner is no way involved in the alleged offence in any manner as alleged in the charge sheet. The payment and receipt of cheques/cash etc. were the responsibilities of the then Branch Manager and Clerk /Cashier of the aforesaid Bank and it would appear from the charge sheet that there is no specific allegation against the petitioner about any irregularities committed by him and otherwise his name is mentioned in the charge sheet, making him as an accused in the present case. The petitioner is in custody since 19.10.2022 in Srijan case and remanded in the present case on 14.11.2022 and in fact there is no specific involvement of the petitioner came out during investigation/inquiry in the present case and only on the basis of suspicion, the petitioner is being charge sheeted in the present case. The petitioner has never misused his official position and the entire allegation of criminal conspiracy, fraud and forgery is false.

7. Learned counsel for the petitioner further submits

that petitioner is not a beneficiary in the entire happenings as during the course of investigation, the investigating agency has not found any amount/property excess to the known sources of the petitioner and the entire case of the petitioner is based on documentary evidence and he has already been taken in custody by the Investigating Agency and there is no chance at all the petitioner would temper the evidence or influence the witnesses.

8. Learned counsel for the petitioner further submits that one of the co-accused of RC2172017A0015 dated 25.08.2019 one Pankaj Kumar Jha has moved before the Hon’ble Supreme Court of India, New Delhi for grant of regular bail in Criminal Appeal No.484/2020 arising out of SLP (Criminal) No.1530/2020 and after hearing the parties the Hon’ble Supreme Court of India, New Delhi considered the case of the petitioner on the facts that “since the charge sheet has been submitted and investigation is complete further custody of the accused may not be necessary” and the Hon’ble Supreme Court of India, New Delhi after hearing the parties granted bail to the accused namely, Pankaj Kumar Jha vide order dated 17.07.2020. He further submits that some of the similarly situated co-accused has been granted bail in Cr. Misc. No.8635 of 2021 (Pradyut Kumar Biswas @ P.K. Biswas Vs. The State of

Bihar), Cr. Misc. No.35068 of 2021 (Barun Kumar Vs. The CBI), Cr. Misc. No.33112 of 2021 (Deo Shankar Mishra Vs. The State of Bihar & Anr), Cr. Misc. No.35301 of 2021 (Sarita Jha Vs. The CBI), Cr. Misc. No.18953 of 2021 (Ram Krishna Jha @ R.K. Jha Vs. CBI), Cr. Misc. No.44285 of 2021 (Ajay Kumar Pandey Vs. The CBI), Cr. Misc. No. 46331 of 2021 (Sant Kumar Sinha Vs. The CBI), Cr. Misc. No.61760 of 2021 (Navin Kumar Saha @ Nabin Kumar Saha Vs. The CBI), Cr. Misc. No.46486 of 2021 (Tapan Kumar Roy @ Tapan Roy Vs. The State of Bihar) (Anticipatory Bail) and after hearing the respondents this Hon'ble Court granted bail to these petitioners by orders dated 13.08.2021, 04.10.2021, 01.12.2021, 03.12.2021, 18.01.2022, 19.01.2022, 03.03.2022, 11.08.2022, 19.09.2022 respectively.

9. The learned senior counsel appearing on behalf of the Central Bureau of Investigation has vehemently opposed the prayer for bail of the petitioner and submits that during course of investigation it has come that the petitioner was involved in the present occurrence and he has conspiring with the other co-accused persons transferred the amount in question from the account of DDC to the SMVSSL and during course of investigation and material collected by the prosecution it

established the role of the accused as a conspirator in the Srijan Scam.

10. Considering the aforesaid facts and circumstances, petitioner is in custody since 19.10.2022, charge sheet has been submitted in this case and the similarly situated co-accused persons have been granted bail by this Hon’ble Court, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, C.B.I.-II, Patna in connection with Special Case No.04 of 2020, arising out of R.C. Case No. 07/A/2018, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that 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 bond 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.

(Rajesh Kumar Verma, J)

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