IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17429 of 2023
Arising Out of PS. Case No.-10 Year-2018 Thana- C.B.I CASE District- Patna

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Ashok Kumar Asthana @ Ashok Asthana Son of Late Bindhyachal Prasad @ Late Bindhyachal Prasad Asthana @ Late Vindhyachal Prasad Asthana Presently R/o R1-2F, Sunrise Symphony, P.S.- New Town, Kolkata 700161, State - West Bengal. ... ... Petitioner/s

Versus

The Central Bureau of Investigation (CBI) New Delhi.. ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Narayan, Advocate Ms. Ritika Ray, Advocate Mrs. Sneha Kumari, Advocate
For the CBI	:	Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV ORDER

10 02-08-2023

Heard Mr. Amit Narayan, learned counsel for the petitioner assisted by Mrs. Sneha Kumari and Mrs. Nivedita Nirvikar, senior counsel appearing on behalf of the Central Bureau of Investigation.

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

3. Petitioner seeks bail who is in custody since 17.10.2022 in connection with Special Case No. 11 of 2020 arising out of Bhagalpur Kotwali (Tilkamanjhi) P.S. Case No. 753 of 2017, F.I.R. dated 14.08.2018 for the offences punishable under Sections 120B, 400, 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988.

4. According to prosecution case, this matter relates to the infamous *Srijan Scam*, which attracted the eyes of public at

large in which crores and crores of government money was siphoned off and it was deposited in the account of Srijan Mahila Vikash Sahyog Samiti Limited (SMVSSL), Bhagalpur.

5. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that the petitioner is not named in the F.I.R and this case arises out of a criminal conspiracy known commonly as the *Srijan Scam* and the name of the petitioner has been transpired after investigation. The CBI submitted the charge sheet no. 4 of 2020 dated 18.03.2020 and according to charge sheet submitted in this case the acquisition made against the petitioner are that, as per paragraph no. 16.3.5 of the charge sheet, there was fraudulent transfer of Rs. 16.5 crore from Account No. 90781 (old) 548689983 (new) of DM, Bhagalpur. Allegedly the petitioner had issued loose Cheque Nos. 995218, 995219 and Cheque Book Series 98201-98220 of account of DM, Bhagalpur without any requisition from account holder. The alleged allegation against the petitioner that he has delivered loose Cheque Nos. 995218, 995219 to Umesh Singh, Field Supervisor of SMVSSL. The next allegation in the charge sheet is that the petitioner had delivered Cheque Book Series 98201-98220 to Late Manorama Devi. The next allegation is

that the petitioner had abused his official position, made entry and verified signature of DM, Bhagalpur in Cheque No. 995218 and 98204. Similar allegation was made against the petitioner with respect to Cheque No. 995219 of Rs. 2 crore. The next allegation as alleged in the charge sheet is that the petitioner had wrongly verified Cheque No. 98206 of Rs. 1 crore and had made wrong entry in system in matter of Cheque No. 98208 of Rs. 2 crore. As per paragraph 16.3.6 of the charge sheet, there was fraudulent transfer of Rs. 3.8 crore from the account of DM, Bhagalpur. Allegedly, the petitioner issued Cheque Book Series 797341 to 797360 of account of DM, Bhagalpur without any requisition from account holder. As per paragraph 16.3.7 of the charge sheet, there was fraudulent transfer of Rs. 3.80 Cr. 50 lac in the account of DM, Bhagalpur. Allegedly, the petitioner had issued Cheque Book Series 480841-480860 of account of DM, Bhagalpur without any requisition from account holder. Next alleged that the petitioner did all the above in conspiracy with Late Manorma Devi and other office bearers of SMVSSL. He further submits that prior to the *Srijan Scam*, the petitioner was a man of clean antecedent and after the scam surfaced, the petitioner came to be implicated in one case. He further submits that the petitioner had discharged his official duties as per the banking norms so the petitioner has not committed any offence and the petitioner did not know any person from SMVSSL and he has never conspired with anyone as alleged in the charge sheet. And as per the charge sheet, there is nothing to suggest that the petitioner has been found to be benefited in terms of any money in the present process. The petitioner was processing the cheques and issued Cheque Book Series in discharge of his routine duties. He further submits that similarly situated, co-accused, namely, Ram Krishna Jha and Ajay Kumar Pandey have been granted bail by a co-ordinate Bench of this Court vide order dated 16.05.2022 passed in Cr. Misc. No. 36143 of 2021 and Cr. Misc. No. 31541 of 2021 respectively, co-accused, namely, Sarita Jha has been granted bail by a Co-ordinate Bench of this Court vide order dated 22.08.2022 passed in Cr. Misc. No. 44890 of 2021, co-accused, namely, Ananda Chandra Ghadai has been granted bail by a Co-ordinate Bench of this Court vide order dated 17.05.2023 passed in Cr. Misc. No. 23941 of 2023 and co-accused, namely, Ranajit Kumar Pal has been granted bail by a Co-ordinate Bench of this Court vide order dated 29.05.2023 passed in Cr. Misc. No. 171 of 2023. The petitioner is in custody since 17.10.2022.

6. 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.8635of 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.

7. 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 as per the paragraph nos. 16.3.5, 16.3.6 and 16.3.7 it appears that the petitioner was actively involved in the present case in conspiracy with Late Manorma Devi and other office bearers of SMVSSL and he has issued the cheques without any requisition from account holder.

8. Considering the aforesaid facts and circumstances, charge sheet has been submitted, similarly situated co-accused persons have been granted bail by different Co-ordinate Benches of this Hon'ble Court and the petitioner is in custody since 17.10.2022, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, CBI-II, Patna in

connection withSpecial Case No. 11 of 2020 arising out of Bhagalpur Kotwali (Tilkamanjhi) P.S. Case No. 753 of 2017 , 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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