IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11016 of 2023

Arising Out of PS. Case No.-19 Year-2017 Thana- C.B.I CASE District- Patna

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Nagendra Bhagat, S/O Late Sukeshwar Bhagat, R/v- Chiraiya, P.S.- Sahiyara, District- Sitamarhi

... ... Petitioner

Versus

The Union of India through C.B.I. New Delhi

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Y. V. Giri, Sr. Advocate Mr. Prabhu Nath Pathak, Advocate
For the Opposite Party	:	Mrs. Nivedita Nirvikar, Advocate Ms. Surabhi Nirmal, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 04-05-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

2. Heard Mr. Y. V. Giri, learned senior counsel, duly assisted by Mr. Prabhu Nath Pathak, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel, duly assisted by Surabhi Nirmal, learned counsel for the CBI.

3. The petitioner seeks regular bail, who is in custody in connection with Special Case No. 07 of 2019, arising out of R.C. Case No. 19(A) of 2017 registered for the offences punishable under Sections 120B, 409, 420, 467, 468, 471, 477(A) of the Indian Penal Code and Sections 13(1)(c) and (d) of the Prevention of Corruption Act, 1988.

4. It is alleged that late Manorma Devi entered into criminal conspiracy with the accused, including the petitioner, to cheat and fraudulently misappropriate funds of District Urban Development Agency, Bhagalpur (hereinafter referred to as 'DUDA') by use of forged bank vouchers during the period 2014-16. In furtherance of this conspiracy, the petitioner while working as Executive Engineer, DUDA, Bhagalpur initiated transfer of funds and in this regard issued cheque no. 9079 dated 27.01.2016 for Rs.6,00,00,000/- (Six Crores) in the name of Executive Engineer, DUDA, Bhagalpur and the same was handed over to the Nazir, who was supposed to deposit in the aforesaid account, but the same has been deposited in the account of Srijan Mahila Vikas Sahyog Samiti Limited (hereinafter referred to as 'SMVSSL') at the Bank of Baroda Bhagalpur.

5. Submission has been made by the learned senior counsel appearing on behalf of the petitioner that he is not named in the F.I.R. and his name transpired during the course of investigation. So far the allegation levelled against the petitioner is concerned, from the materials on record, it is evident that the same is concerned to the Bank Manager and officials of Bank of Baroda, Bhagalpur with Manorma Devi, the then Chairman of

SMVSSL for tampering the cheque no. 9079 dated 27.01.2016 of rupees six crores issued by the petitioner exclusively in favour of the Executive Engineer, DUDA, Bhagalpur. Further submission has been made that the other Executive Engineers, who were later on joined on the said post, they also issued similar cheques in favour of DUDA, Bhagalpur, but by tampering the same, the amounts were deposited in the account of SMVSSL and on being relieved from there respective post they have been made accused in this case. Thus, considering the aforesaid facts they have been allowed the privilege of anticipatory bail by the learned coordinate Bench of this Court in Cr. Misc. No. 21757 of 2022 vide order dated 17.11.2022 and Cr. Misc. No. 25551 of 2022 vide order dated 17.11.2022, the copies of which have been annexed in the application.

6. It is next submitted that the petitioner being Government servant has along fully cooperated during the investigation and there is no allegation of tampering with the evidence, apart from the fact that investigation of the crime is complete and charge-sheet has been submitted. The petitioner is in custody since 06.11.2022.

7. On the other hand, learned senior counsel appearing on behalf of the C.B.I. vehemently opposes the bail application

and submits that during the course of investigation the material has come, showing active role of the petitioner and conspiracy with other accused persons, including late Manorama Devi, the then Chairman, SMVSSL and misappropriation of fund has been made by making tampering in the cheques and by using forged bank vouchers. It is also submitted that the petitioner along with other Executive Engineers during their tenure issued cheques, but the said cheques were credited in the account of SMVSSL in Bank of Baroda Bhagalpur by tampering with the cheques. From the record, it appears that the cheque, in question, dated 27.01.2016 for Rs. Six crores, which was supposed to be deposited in DUDA account in Bank of Baroda was fraudulently credited in the account of SMVSSL, Bhagalpur on the strength of stamp and signature of Manorma Devi, the then Chairman of SMVSSL, Bhagalpur, hence the complicity of the petitioner in the present crime cannot be denied.

8. Regard being had to the submissions made on behalf of the parties, it appears that the instant case is popularly known as 'Srijan Scam'. As a result of conspiracy various large amounts belonging to the Government was illegally transferred to the account of SMVSSL, however, considering the materials

and the nature of accusation prima facie it appears that the cheque was issued in favour of Executive Engineer, DUDA, Bhagalpur and the same was handed over to the Nazir, who was supposed to deposit in the aforesaid account but the same has been deposited in the account of SMVSSL, Bhagalpur and as such there is no material showing any tampering has been made on the part of the petitioner, coupled with the fact that other co-accused persons, having similar allegation, have been allowed the privilege of anticipatory bail, as also the fact that there is no allegation of tampering with the evidence against him and charge-sheet has already been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, CBI (II), Patna in connection with Special Case No. 07 of 2019, arising out of R.C. Case No. 19(A) of 2017, subject to the condition that one of the bailors will be the close relatives 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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