IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9088 of 2022

Arising Out of PS. Case No.-14 Year-2017 Thana- C.B.I CASE District- Patna

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Pranav Kumar Ghosh @ P.K.Ghosh, male, aged about 50 years, Son of Late Nikhilesh Chandra Ghosh, Resident of 66, Naya Tola Gayanendra Nath Mukharjee Road, Ishakchak Bhikhanpura, P.S.- Ishachak, District- Bhagalpur.

... ... Petitioners

Versus

The Central Bureau of Investigation through its Director.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Y. C. Verma Sr. Adv with Ms. Priyanka Singh, Adv.
For the CBI : Ms. Nivedita Nirvikar, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

9 06-02-2023 Heard learned senior counsel for the petitioner and learned senior counsel representing the Central Bureau of Investigation *(for brevity 'CBI')*.

The petitioner seeks bail in connection with Special Case No. 12 of 2020 arising out of R. C. 14/A/2017, registered for the offence punishable under Sections 120B r/w Sections 409, 420,467, 468 and 471 of the Indian Penal Code and Sections 13(2)/13(1)(d) of the Prevention of Corruption Act.

The case arises out of a First Information Report *(for brevity 'FIR')* bearing Bhagalpur Kotwali (Tilkamanjhi) PS Case No. 505 of 2017 registered on 10/08/2017 by the office of the *Zila Nazarat Shakha* at *Bhagalpur,* related to illegal transfer and misuse of funds from Government Bank accounts in Bhagalpur and Saharsa. The said case was re-registered by the *CBI* on transfer of the case vide Notification under Section 6 of the Delhi Special Police Establishment Act, 1946 *(for brevity 'DSPE Act, 1946)* issued by the Home Department Government of Bihar. The Government of India also issued notification dated 21/08/2017, under sub-Section (1) of

Section 5 read with Section 6 of the DSPE Act 1946, for extending the powers and jurisdiction of the members of the DSPE to the whole of the State of Bihar for investigation, supervision and inquiry into above noted FIR lodged by the 'Zila Nazarat Shakha'.

The brief substance of allegation in the FIR is diversion of huge funds from the accounts of District Magistrate, Bhagalpur to the accounts of 'Srijan Mahila Vikas Sahyog Samiti Limited *(for brevity 'SMVSSL').* The investigation was carried on for more than three (03) years.

Charge-sheet was submitted on 25/06/2020. As per charge-sheet, late Smt. Manorma Devi conspired with officers of the District Nazarat, Bank of Baroda and the Indian Bank at Bhagalpur, illegally diverted Government funds from three accounts of the District Magistrate, Bhagalpur during a period of about seven (07) years in between 2004 to 2011, in conspiracy with office bearers of *'SMVSSL'* and other private persons. The petitioner regularly met with Smt. Manorma Devi, since deceased, in her house and in the office of '*SMVSSL'* and helped her in accounting related works. He, thus, aided the criminal conspiracy. He has also allegedly received Rupees 25,00,000/- (Twenty Five Lakhs) from *'SMVSSL'* through cheque in his account maintained with the Bank of Baroda at Bhagalpur.

The learned senior counsel for the petitioner submits that the petitioner was not initially named in the FIR. He is a private individual. He is neither the staff or employee of the bank/s, nor of '*SMVSSL'*. He is a professional, engaged in offering Tax consultancy and Accountancy services to various entities. Even the alleged acceptance of Rs. 25,00,000/- which is not admitted, is in his own bank account which is a clear indication of petitioner's *bona fides*. The petitioner's name has been inserted during investigation merely on suspicion. It is submitted that he has repeatedly made himself available as and when required by the Investigating Agency for the purposes of investigation. There is no chance of abscondence of the petitioner or that he is going to tamper with evidence or influence the witness in any manner. The offences are denied by stating that the material in the charge-sheet does not support the commission of offences under the sections, for which the FIR has been lodged. The petitioner, prior to the instant case, has not been implicated in any criminal case. After this case, he has also been made accused in Special case No. 05 of 2021.

He is in custody since 07/09/2021.

Learned senior counsel appearing on behalf of the CBI, on the other hand, would submit that the petitioner used to visit the office of *'SMVSSL'* on regular basis for helping the main accused in its accounting related works. He has also received Rupees 25,00,000/- (Twenty Five Lakhs) from *'SMVSSL',* by cheque in his account. The evidence, thus, collected is sufficient to establish the criminal role of the petitioner. In fact, he is one of the main conspirators and beneficiary of the offence.

In the counter-affidavit, the Investigating Agency has averred that if petitioner is enlarged on bail, he may influence the witnesses of the case or he may evade the trial proceedings.

This Court has gone through the allegations against the petitioner as per charge sheet and heard submissions of the learned senior counsels, for the limited purpose of consideration on the petitioner's prayer for bail. Accordingly, this Court would find that it is not alleged that the petitioner is a Government servant, or employee of *SMVSSL*, the alleged amount of Rs. 25,00,000/- has been received in the petitioner's own account and, therefore, the claimed *bona fides* of these transactions, as per learned senior counsel for the petitioner, must also be considered favourable to the petitioner. It is also not in dispute that he has made himself available during investigation. The petitioner till now has remained in custody for nearly one and half years, when at least 11 co-accused persons, namely, Pradyut Kumar Biswas @ P.K. Biswas @ Vishwas, Banshidhar Jha @ Vanshidhar Jha @ Vanshidhar, Subh Laxmi Prasad @ Shubh Laxmi Prasad, Sarita Jha, Deo Shankar Mishra, Amrendra Kumar Yadav, Navin Kumar Saha @ Nabin Kumar Saha, Barun Kumar, Ram Krishna Jha, Ajay Kumar Pandey and Ashok Kumar Asthana have been allowed bail in Criminal Miscellaneous Nos. 17456 of 2021, 52560 of 2021, 68670 of 2021, 35842 of 2021, 40045 of 2021, 32415 of 2021, 50472 of 2021, 35666 of 2021, 13523 of 2021, 6093 of 2021, 65343 of 2022 respectively, arising out of the same case, known in common parlance as “Srijan Scam”.

Insofar as the averment in the counter affidavit that petitioner may influence the witnesses, this Court would find that assertion is not supported by any material particulars as to which of the witness, he has tried to influence, and in what manner. There is nothing more than a generalized apprehension expressed in the counter affidavit without any material basis. The same, therefore, cannot be a reason to conclude such propensity of the petitioner to deny regular bail.

The Court, therefore, is inclined to accept the submissions advanced by the learned counsel for the petitioner, as noted above, so as to allow him bail. The consideration is for the limited purposes of grant of bail and may not be deemed as an expression of any opinion by this Court on the merits of the matter which is yet to be determined at the trial or for any other purposes.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, CBI-II, Patna, in connection with Special Case No. 12 of 2020 arising out of R. C. 14/A/2017, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(iii) The petitioner shall not leave the country without permission of the Trial Court.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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