IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8625 of 2023

Arising Out of PS. Case No.-81 Year-2017 Thana- VIGILANCE District- Patna

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Sultanpet Munilakkappa Raju @ S.M. Raju S/O Sri Munilakkappa R/o- Mnilakkappa, No. 11, RBI Colony, Anand Nagar, Banglore North, Bangaluru, Karnataka, 560024 C/o J.P. Singh, Road No. 13/B, Bahadurpur, Rajendra Nagar, P.S.- Bahadurpur, District- Patna

... ... Petitioner/s

Versus

The State of Bihar through Cabinet Vigilance,Patna Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Ashish Giri, Advocate
		Ms. Riya Giri, Advocate
		Mr. Sumit Kumar Jha, Advocate
For the Vigilance	:	Mr. Arvind Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

CAV ORDER

5 25-05-2023 Heard Mr. P.N. Shahi, learned senior counsel assisted by Mr. Ashish Giri, for the petitioner and Mr. Arvind Kumar, learned counsel for the Vigilance.

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.

Petitioner seeks bail who is in custody since 20.01.2023 in connection with Patna Vigilance Case No. 81 of 2017 giving rise to Special Case No. 343C of 2017, F.I.R. dated 23.10.2017 for the offences punishable under Sections 406, 409, 420, 467, 468, 471, 477(A), 120(B) of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of

Corruption Act, 1988.

This case relates to a large scale corruption in the Scheme of Bihar Mahadalit Vikas Mission in which a huge amount of government fund has been siphoned after while at the instance of F.I.R. named accused persons in connivance of Sri Ram New Horizon and others.

Learned counsel for the petitioner submits that the present F.I.R. has been instituted on 23.10.2017 on the basis of the written report of Deputy Superintendent of Police, Vigilance Investigation Bureau, Patna. Thereafter, the matter was investigated wherein the petitioner fully participated and cooperated in the investigation and thereafter, the charge sheet was submitted against the petitioner on 25.04.2019. After that, the Court of learned Special Judge, Vigilance Patna has been pleased to take cognizance vide order dated 26.04.2022.

Learned counsel for the petitioner submits that there is no allegation in the F.I.R. against the petitioner that he has received any amount from the company and the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. and he has never misused his official position.. He further submits that in light of the evidence and the investigation conducted by the

Investigating Officer after submission of the charge sheet, it is apparent that the allegation made in the F.I.R. has been limited only to certain issues. He further submits that from perusal of the allegation made against the petitioner has thus been limited to the following allegation which are summarized as follows:

i) Causing loss of government revenue due to non-tendering.

ii) Loss of government revenue by deleting the order given for the recovery of amount.

iii) The Service Tax amount of Rs. 7,21,001.00/- not being paid to the government and instead making the cheque available to Shri Sharad Kumar Jha, Director IIIM Ltd.

iv) Amount of Rs. 24,88,501.00/- having paid on the basis of fake information list.

v) To get the cheque of payment of Rs. 24,88,501.00/- on the basis of fake list submitted on the basis of forged document of examination and certification prepared by the Director namely, Sharad Kumar Jha.

vi) Without any requirement constituting PMU leading to loss of government revenue of Rs. 10,45,168.00/-.

Learned counsel for the petitioner submits that the aforesaid allegations are wholly misplaced and lacking evidence. In fact, the petitioner was involved and induced in the Bihar Madadalit Vikas Mission as Secretary cum Chief Officer during the period 20.02.2013 to 21.01.2014 and thereafter, 20.11.2014 to 23.02.2016. Thus, the petitioner has no concern to the period prior and post of his involvement in the mission.

That as far as the allegation of **first charge** is concerned i.e. **causing loss of government revenue due to non-tendering**, the said objection was initially taken from the office of the Accountant General (Audit), Bihar, Patna dated 11.07.2013 in terms of Clause 2 and the said allegation pertains to the period prior to joining of the petitioner which was on 20.02.2013 to 21.01.2014. Whereas the objection regarding the non-tempering pertains to the agreement suited in 2013 i.e., 13.10.2011.

The State Mahadalit Commission was formed by the Government to make accommodation for proper development in all areas of educational, social, economic, etc, among the Scheduled Castes and Scheduled Tribes. As a result of the report of the said commission, the Bihar Mahadalit Vikas Mission hereinafter referred to as BMVM was created as an autonomous body under the Scheduled Castes and Scheduled Tribes Welfare Department, Government of Bihar, under the Society

Registration Act, 1960. Under the Dashrath Manjhi Kaushal Vikas Yojana (DMKVY) Mahadalit youth and women were to be trained free of cost and their technical skills were to be enhanced for the employability. On 29.03.2021, BMVM invited expression of interest (EOI) for providing training in Microsoft Office Trade and accordingly, Shri Ram New Horizon was found fit for grant of contract and tender was granted and the petitioner was not holding any post on 29.03.2021 so the petitioner had no role to play in the said tender process and the award of the contract.

On 20.02.2013, the petitioner was appointed as Chief Executing Officer, BMVM and in order to cure the objections raised by the Accountant General, the petitioner has setup a tender committee which published a tender proposal wherein 39 proposals were received inclusive of IIIM Ltd. It was informed by the competent authority to BMVM that only two entities namely, Shri Ram New Horizon and IIIM Ltd. were authorized re-sellers of Microsoft and the petitioner for smooth operation and to ensure better productivity of the scheme modify the payment clause from advance payment system to work against payment basis and there was no loss of revenue caused to the government at the instance of the petitioner. The audit objection of the Accountant General was pertaining to the period of Sri Ravi Manubhai Parmar being the then Chief Executive Officer of Bihar Mahadalit Vikas Mission. After the completion of the investigation, the investigating authority has in fact submitted final form against Sri Parmar and the government had refused to grant sanction of prosecution against him.

With respect to **second charge** i.e., **loss of government revenue by deleting the order given by the recovery of the amount**. Learned counsel for the petitioner submits that Shri K.P. Ramaiya was appointed as Chief Executive Officer, BMVM from 21.01.2014 to 28.02.2014, thereafter, the petitioner again served as Chief Investigating Officer, BMVM for period 20.11.2014 to 26.02.2016 and during his tenure it was found that the payment being made to the Microsoft Trade was not in consequence to the work order. The petitioner sent show cause notice to IIIM Ltd. and Shri Ram New Horizon for refund of Rs. 2 crore to BMVM. It was found that the payment being made to IIIM Ltd. and Shri Ram New Horizon are in terms of the agreement instituted by them as the work of training is separate and the work of examination certification was separate for which different agreement was entered in 2011 itself and on the basis of the same, payment was being made. Thereafter, the petitioner withdraw the said show cause notice and there was no illegality or irregularity or any revenue loss to the government. It is apparent from the fact that the said IIIM Ltd. has also in relation to the agreement in question filed a Request Case No. 88 of 2018 for appointment of Arbitrator to adjudicate the dispute between the parties. Accordingly, the matter was adjudicated in Arbitration Case No. 11 of 2018 vide order dated 15.03.2021. The Hon'ble Arbitrator has taken notice of the decision of the office of the Accountant General dated 12.04.2019 and was awarded in favour of the claimant i.e., IIIM Ltd.

With respect to the **third charge**, **the Service Tax amount of Rs. 7,21,001.00/- not being paid to the government and instead making the cheque available to Shri Sharad Kumar Jha, Director IIIM Ltd**. The allegation of non-payment of the service tax to the tune of Rs. 7,21,001.00/- the said party i.e., IIIM Ltd. has already paid the service tax amount to the Department electronically on 07.02.2015 itself i.e., before the filing of the present F.I.R. itself.

With respect to **charge 4 and 5** i.e., **amount of Rs. 24,88,501.00/- having paid on the basis of fake information list and to get the cheque of payment of Rs. 24,88,501.00/- on**

the basis of fake list submitted on the basis of forged document of examination and certification prepared by the Director namely, Sharad Kumar Jha. In the said charge the payment is alleged to have been made to the Director of IIIM Ltd. namely Shri Sharad Jha alleging to be done on the basis of forged document and examination and certification to the tune of Rs. 24,88,501.00/- the payments are made in terms of the Clause 21 of the agreement dated 19.11.2013. Learned counsel for the petitioner further submits that nothing has come during investigation to show that any disbursement of amount has been done contrary to the agreement executed between the parties. The beneficiary of the aforesaid agreements is namely, Shri Sharad Kumar Jha, Director, IIIM Ltd. and the said Sharad Kumar Jha, Director IIIM, Ltd. has been granted bail vide order dated 25.08.2018 in Cr. Misc. No. 49512 of 2018 and another accused member, namely, Shri K.P. Ramaiya has also been granted bail by the learned Court vide order dated 08.05.2019 in Special Case No. 343 of 2017.

With respect to **charge 6**, **without any requirement constituting PMU leading to loss of government revenue of Rs. 10,45,168.00/-**. It is submitted by the learned counsel for the petitioner that from the bylaws of the society under Para 8 and

9, it is apparent that the Chief Executive Officer i.e. the petitioner can take the decision after the approval of the Executive Committee. It appears from the entire investigation that the petitioner is not the beneficiary of any penny and it appears from the F.I.R. that there is no allegation against the petitioner of having forged and fabricated document. He further submits that the F.I.R. itself reveals that the action was according to the terms of the MOU as per the decision taken by the competent authority and the petitioner has never misuses his official position and the act was done bonafidely in accordance with the terms of the MOU and as per the decision of the committee.

Learned counsel for the petitioner next submits that as per the record of the case, the prosecution of the investigation submitted a charge sheet on 25.04.2019 and he relied upon the judgment of the Hon'ble Supreme Court dated 20.03.2023 in Special Cr. Appeal No. 376 of 2023 (Mahdoom Bava vs. Central Bureau of Investigation). He further submits that in the aforesaid judgment, the Hon'ble Supreme Court observe in para 9(i), 9(ii) and 9(iii) which are as follows:

> ***"9(i) Admittedly, the CBI did not require the custodial interrogation of the***

appellants during the period of investigation from 29.06.2019 (date of filing of FIR) till 31.12.2021 (date of filing of the final report). Therefore, it is difficult to accept the contention that at this stage the custody of the appellants may be required.

9(ii) In the reply/counter filed before the High Court, the CBI had taken a categorical stand that the Court had merely issued summons and not warrant for the appearance of the accused. In the case of Shri Deepak Gupta, CBI had taken a stand before the Special Court that "the presence of the accused is not required for the investigation but it is certainly required for trial" and that therefore he needs to be present. Therefore, all that the CBI wanted was the presence of the accused before the Trial Court to face trial. In such circumstances, to oppose the anticipatory bail request at this stage may not be proper; and

9(iii) All transactions out of which the complaint had arisen, seem to have taken place

during the period 2009-2010 to 2012-2013 and all are borne out by records. When the primary focus is on documentary evidence, we fail to understand as to why the appellants should not be arrested."

In the present case also the prosecution did not require the interrogation of the petitioner and the present case is based upon the documentary evidence and charge sheet have already been submitted long back in the year 2019 and the main beneficiary of the amount is co-accused persons, namely, Sri Sharad Kumar Jha, Director, IIIM Ltd. and Sri K.P. Ramaiya who was also the Chief Executive Officer had released funds to the beneficiary before their voluntary retirement where Sri Sharad Kumar Jha, Director IIIM Ltd. has been granted bail by this Hon'ble Court vide order dated 25.08.2018 passed in Cr. Misc. No. 49512 of 2018 and another co-accused, namely, Sri K.P. Ramaiya who is Chief Executive Officer has been granted bail vide order dated 08.05.2019 passed in Special Case No. 343 of 2017 by the learned Court below itself.

Learned counsel for the Vigilance has vehemently opposed the prayer for bail of the petitioner and submits that the allegation against the petitioner is the large scale corruption in the schemes of the Bihar Mahadalit Vikas Mission (BMVM) established for the benefit of Scheduled Castes and Scheduled Tribes. In course of investigation on the basis of materials collected a supplementary charge sheet No. 20 of 2019 dated 25.04.2019 was filed against the 1) petitioner 2) Sri K.P. Ramaiya the then Chief Executive Officer BMVM Patna 3) Sri Ramashish Paswan then Project Director, BMVM, Patna 4) Sri Prabhat Kumar, then Mission Director, BMVM, Patna 5) Smt. Devjani Kar then State Project Officer, BMVM, Patna 6) Sri Umesh Manjhi, State Project Manager, BMVM, Patna 7) Sri Saurav Basu then Vice President Operation, SRNH 8) Sri Jaideep Kar then Head Startegic Project, IIIM Ltd. under Section 406, 409, 420, 467, 468, 471, 477A and 120B of the Indian Penal Code and Section 13(2) read with 12(1)(d) of Prevention of Corruption Act, 1988. He further submits that the audit report question the rational behind the payment of Rs. 62,40,200/- to IIM Ltd. without conducting of any examination and without issuing certificate to the trainee by IIIM Ltd. The audit report also indicate the official of the BMVM for not canceling the work order dated 23.11.2011 issued to IIIM Ltd. for not completing the work within the stipulated period i.e., 22.11.2012. The petitioner was bail acquainted of the aforesaid development that no list of training of conducting of the examination and certificate was furnished by IIIM Ltd. to the BMVM and no such examination was conducted by IIIM Ltd. The BMVM has paid Rs. 18,30,801/- on 01.07.2013 and Rs. 24,88,501/- on 21.05.2015 to Sri Sharad Kumar Jha of IIIM Ltd. He further submits that despite the adverse notice of the petitioner on page 43 and 44 of the file No. 6/8 of the BMVM dated 01.01.2015 the petitioner has acted in favour of the accused, Sri Sharad Kumar Jha of IIIM Ltd. which clearly establishes that at the expenses of the Government money, the petitioner has cause wrongful payment to the IIIM Ltd. in criminal conspiracy with the accused, Sri Sharad Kumar Jha of IIIM Ltd. and the petitioner has also proved proposal of Smt. Devjani Kar in connivance of Sri Sharad Kumar Jha and issued work order to him on the basis of the agreement dated 20.112013 for a period of 12 months for conducting examination and certification of 9120 trainee under DMKY Scheme and 6080 trainee under the SCA Scheme at the rate of Rs. 1,800/- per trainee. He further submits that in comparison to the first agreement dated 23.11.2011 the second agreement was negotiated on the basis of EOI clearly shows that the sum of Rs. 10 lakhs was defalcated by BMVM Officials.

In view of the aforesaid the petitioner is not entitled to enlarge on bail. Learned counsel for the Vigilance further submits that the petitioner may be enlarged on bail after framing of the charges and fairly submits that co-accused, namely, Sri Sharad Kumar Jha, Director IIIM Ltd. has been granted bail vide order dated 25.08.2018 passed in Cr. Misc. No. 49512 of 2018 and another co-accused, namely, Sri K.P. Ramaiya who is Chief Executive Officer has been granted bail vide order dated 08.05.2019 passed in Special Case No. 343 of 2017. He further contends that according to paragraph-3 of the petition, the petitioner carries two criminal antecedents beside the present one.

Having regard to the submissions of the parties that the charge sheet has already been submitted and the present case is based upon the documentary evidence and the main beneficiary of the amount was the co-accused, Sri Sharad Kumar Jha, Director IIIM Ltd. and another co-accused, namely, Sri K.P. Ramaiya have been granted bail in the present case and the petitioner is in custody since 20.01.2023, 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 Court Vigilance, Patna in connection with Patna Vigilance Case No. 81 of 2017 giving rise to Special Case No. 343C 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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