IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14426 of 2022

Arising Out of PS. Case No.-17 Year-2017 Thana- C.B.I CASE District- Patna

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BIPIN KUMAR @ BIPIN KUMAR SHARMA Son of Karthik Kumar Resident of Village - Hanuman Path Tilkamanjhi, Near State Bank of India, P.s.- Tilkamanjhi, Distt.- Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau of Investigation.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate
For the C.B.I	:	Ms. Nivedita Nirvikar, Sr. Advocate
		Ms. Richa, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

13 26-04-2023 Heard learned counsel for the petitioner and learned senior counsel representing the Central Bureau of Investigation *(for brevity 'CBI')*.

The petitioner seeks bail in connection with R.C. 17/A/2017, giving rise to Special Case No. 14/2020 arising out of Bhagalpur Kotwali (Tilka Manjhi) PS Case No. 513/2017 registered for the offence punishable under Sections 120B, 409, 420, 467, 468 and 471 of the Indian Penal Code and Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

An FIR RC 2172017A0017, CBI, ACU-V, AC-II, New Delhi was registered by CBI on 25.08.2017 by taking over investigation of FIR No. 513/2017 dated 12.08.2017 of Bhagalpur Kotwali (Tilka Manjhi) U/s 34, 120-B, 409, 419, 420, 467, 468 & 471 of IPC, in compliance to the Notification dated 18.08.2017 of Home Department of Government of Bihar u/s 6 of DSPE Act.

The brief substance of allegations in the FIR is embezzlement/fraudulent transfer of funds from the account of the Deputy Development Commissioner (DDC)-cum-Chief Executive Officer (CEO), Zila Parishad, Bhagalpur to the account of 'Srijan Mahila Vikas Sahyog Samiti Limited' *(for brevity 'SMVSSL').* The instant petitioner was not an accused named in the FIR.

Upon completion of investigation, charge-sheet was submitted on 17.02.2018 against 13 accused persons. Supplementary charge-sheet No. 9 of 2020 dated 16.10.2020 was filed, nearly four years after institution of the FIR. In the supplementary charge-sheet, the investigation agency found involvement of 11 new accused persons, including the petitioner's role, in the alleged crime.

As per the charge-sheet, the petitioner's involvement has emerged in four other cases arising out of similar allegations, all of which together constitute, what is known in common parlance as "Srijan Scam". The petitioner was very close with the prime accused Smt. Manorama Devi, one of the main beneficiaries of the "Srijan Scam". He used to meet her regularly and assisted her in booking, payment and purchase of property from the funds, being the proceeds of crime. He has also allegedly booked a flat in his wife's name, for which payment was made from the accounts of *SMVSSL.* Amounts have been transferred to the account of Liberty Shoes Limited for sale of products to Footwear point run by the petitioner. He has procured garments from *Lee* and *Wrangler Jeans* for his other commercial venture 'Fashion Point', payments of which were made from the account of *SMVSSL.* His active participation in the crime and criminal conspiracy have thus been alleged.

Learned counsel for the petitioner submits that on surmises and conjectures the petitioner has been implicated merely because allegedly some transactions have emerged between the *SMVSSL* and the petitioner. He is neither government employee, nor an employee of the *SMVSSL***.** Merely because he was having a Cash Credit account with the Banking unit of *SMVSSL*, and certain transactions arising from the said Bank, he has been implicated in six cases, including the instant case. He is on bail in RC 13A of 2017, RC 7A of 2018 and RC 15/A/2017. The material in the charge-sheet does not establish any role of the petitioner in the siphoning or misappropriation of the Government funds as alleged against *SMVSSL*. The alleged payment of *SMVSSL* are in fact, payments received by way of Cash Credit facilities from the Banking business of *SMVSSL*. The other alleged transactions are also either by taking loan or by using the Bank facilities of the Banking unit of *SMVSSL*. The petitioner is not named in the FIR. The material does not support any of the offences as alleged in the FIR. The petitioner has deep roots in the society, thus, it cannot be said that there is any chance of the petitioner's abscondence or his tampering with any evidence, or influencing any witness. Several co-accused, namely, Subrat Das @ Subrata Das, Ajay Kumar Pandey, Sarita Jha, Atul Raman, Deo Shankar Mishra, Barun Kumar, Mohd. Sarfrajuddin @ Md Sarfrajuddin, Banshi Dhar Jha @ Vanshi Dhar Jha @ Vanshi Dhar, Nabin Kumar Saha, Rakesh Kumar, Rakesh Kumar @ Rakesh

Kumar Yadav have been allowed bail vide Cr. Misc. Nos. 22914 of 2020, 33285 of 2020, 2560 of 2021, 6540 of 2021, 8319 of 2021, 16351 of 2021, 34719 of 2021, 35990 of 2021, 40274 of 2021, 40324 of 2021 and 45464 of 2021 respectively. The petitioner's case is on a better footing then these co- accused persons.

The petitioner is in custody since 27.09.2021 in connection with other cases arising out of the same Scam, and remanded in this case on 30.11.2021.

Learned Senior counsel for the CBI would submit that the various transactions which have emerged in the investigation, which this Court has noticed above, show transfer of funds from *SMVSSL* to the petitioner for various purposes. Thus, it is a clear indication of the petitioner's involvement in the offences arising out of the FIR. The petitioner has benefited from the *SMVSSL,* which organization was a beneficiary of the misappropriated Government funds. Material therefore, is sufficient to support the allegations against the petitioner.

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.

On hearing the learned counsels, this Court would take into consideration the nature of accusations and material collected in the investigation, as noted above, including the assertion on behalf of the petitioner that he maintained Cash Credit account with the Banking unit of *SMVSSL,* petitioner also is neither a Government

Servant, nor an employee of *SMVSSL*. The Court would also consider his plea regarding the transactions being in due course of Banking business as a customer of banking unit of *SMVSSL*, for the limited purposes of grant of bail.

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 learned senior counsel for the Investigating Agency (CBI) has not denied the assertion regarding petitioner's cooperation in the investigation leading to submission of the charge sheet, the factum of several co-accused having been allowed bail, as noted above, is also not denied or disputed.

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.

Petitioner's prayer for bail is allowed.

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-II, CBI, Patna, in connection with Special Case No. 14 of 2020 cum- R.C. 17/A/2017 arising out of Bhagalpur Kotwali (Tilka Manjhi) PS Case No. 513/2017, 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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