IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14512 of 2022

Arising Out of PS. Case No.-3 Year-2021 Thana- ECONOMIC OFFENCES, BIHAR District- Patna

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Janak Nandan Singh, Son of Late Sridhar Singh Resident of Village - House No.44, P.N.B. colony, Gola Road, P.s.- Danapur, Distt.- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. Economic Offence Unit through its Additional Director General, Govt. Of Bihar, Baily Road, Patna. Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma, Advocate Mr. Shiv Kumar, Advocate Mr. Sahjanand Sharma, Advocate
For the Economic Offence	:	Mr. Vishwanath Prasad Sinha, Sr. Advocate Mrs. Soni Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

10 02-02-2023 Heard learned counsel for the petitioner, learned Senior Counsel who represent the Economic Offence Unit duly assisted by Mrs. Soni Srivastava and perused the records.

The petitioners apprehend their arrest in connection with Economic Offence P.S. Case No.3 of 2021 instituted under Sections 409,467,171,120(B) of the Indian Penal Code and Section 13/2 read with Section 13(1)(a) of the IPC Act.

As per the prosecution case, a fake account was opened in Madhya Bihar Gramin Bank, Khiryawa Branch, Madanpur in the name of Vidyalaya Shiksha Samiti of Primary School, Tekabigha in which about 2.5 crore rupees was transferred by the Welfare Department for pre-matric students scholarship which was defalcated under a criminal conspiracy. As per the letter of Home Department the investigation of this case was entrusted to the Economic Offence Wing. It is alleged that during investigation it came to light that District Welfare Officer, Aurangabad, in connivance with his staffs and by abusing his official position under a criminal conspiracy transferred crores of rupees under the head of scholarship to different schools which were either non-existent or private one.

The further allegation was that during the enquiry, the District Welfare Officer, Aurangabad, was found to be running total 20 bank accounts in his name during the period 2012 to 2016 and till the lodging of the FIR only 08 accounts and vouchers were received in which it was found that by committing forgery and fraud the District Welfare Officer, Aurangabad, illegally transferred the amount of scholarship in those accounts.

Further, the allegation was that on correspondence with the District Education Officer, Aurangabad, he informed that 19 schools were not government schools to which an amount of Rs.4,93,69,400/- was transferred under the head of scholarship. Further, 19 more schools were found in which the amounts were not transferred in the account of Vidyalaya Shiksha Samii rather to other accounts and a sum Rs.6,24,27,000/- were received and later on misappropriated.

Further, 17 schools were found to have received excess amount of Rs.1,61,83,500/- as per the ratio of student registered in those schools. It was also alleged that the District Welfare Officer was to see the fund of the schools and the Supervising Officer was DDC. But the District Welfare Officer knowingly with other related officials jointly misappropriated the fund. In this way, allegation is that a total sum of Rs.11,17,96,400/- has been misappropriated by the accused persons. Accordingly, the FIR was lodged.

Learned counsel for the petitioner submits that he being the 'Nazir' posted in the District Welfare Office, the file used to come to his office and his only duty was to prepare cheque as per the direction of the higher authority. He was under no circumstance directly or indirectly involved in the affairs of the distribution of the scholarship and only because he was the author of the cheque, has been implicated in this case.

Further, submission is that earlier also, he was implicated in Town P.S. Case No.266/2018 in which he was granted the privilege of bail vide Cr. Misc. No.4068 of 2019 on

11.3.2019. The further submission is that in another case, after rejection of his anticipatory bail in connection with Salaiya P.S. Case No.78 of 2017, the petitioner moved before the Supreme Court of India in SLP(Crl) No.8362/2021 in which the Hon'ble Apex Court gave interim relief to the petitioner with the direction to cooperate with the investigation.

Per contra, learned Senior Counsel for the opposite party no.2 submits that allegation is of misappropriation of Rs.11,17,96,400/- and the modus operendi was very simple. Cheques were issued in favour of the schools which were non-extent and the number is 19. Further for example in schools, where the actual students were fifty, exaggerating the figure to 75 misappropriation of fund for additional 25 students were done and he being the 'Nazir', cannot exonerate himself from said misappropriation of huge amount.

Having heard the rival submissions and going through the record and taking into account the fact that in another case vide Salaiya P.S. Case No.78 of 2017, the Hon'ble Apex Court has granted interim relief to the petitioner, this Court is of the view that the petitioner should appear before the concerned authority and cooperate in the investigation so that the matter could be taken to the logical conclusion. Further, in light of the order in the SLP (Crl) No.8362/2021, in the considered view of the court, the same interim protection can be extended to him only till the investigation is concluded and/or the final order is passed by the Hon'ble Apex Court and the result of that order will affect the present order too inasmuch as if the case pending before the Hon'ble Apex Court is dismissed, the petitioner will have to seek further legal remedy.

With the aforesaid observation, the anticipatory bail stands allowed with conditions.

Let the petitioner be released on bail, in the event of his arrest or surrender before the Sub-ordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each in connection with Economic Offence P.S. Case No.3 of 2021 to the satisfaction of learned Special Judge, Vigilance Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further conditions that:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner will make himself available to the police as and when required in course of investigation;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan /-

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