IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23248 of 2023

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

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Shankar Prasad Das @ Sankar Prasad Das Son Of Late Hari Ranjan Das Resident Of 147 / 1011, Netaji Subhash Chandra Bose Road, Flat No. 3B, Regent Park, Kolkata, P.S. - Golf Green, West Bengal, Dist. Kolkata

... ... Petitioner/s

Versus

The Central Bureau Of Investigation (C.B.I.), New Delhi. New Delhi

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan, Advocate

For the Opposite Party/s : Mrs.Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

CAV ORDER

4 31-07-2023 Heard Mr. Sanjeev Ranjan, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, the learned senior counsel for the Central Bureau of Investigation.

2. The petitioner seeks bail, who is in custody since 30.11.2022 in connection with Spl. Case No.14 of 2020 arising out of RC Case No.17(A) of 2017, F.I.R. dated 25.08.2017 registered for the offence punishable under Sections 34, 120B 409,419, 420,467,468 and 471 of IPC and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

3. The prosecution case, in short, is that from perusal of the chargesheet it transpires that petitioner was working as Branch Manager in Bank of Baroda, Bhagalpur

from May 2011 to May 2014. During the relevant period, he conspired with Manorma Devi and Sarita Jha in order to avoid dishonoring of cheques issued by DDC-cum-CEO, Zila Parishad, Bhagalpur and to hide the diversion and misappropriation of Govt. funds and by abusing his official position he, intentionally verified/checked transactions in banking system of Rs.1,73,00,000/- dated 17.05.2023 vide Cheque No.561095, Rs. 9,00,000/- dated 20.05.2013 vide Cheque No.613960, Rs. 11,00,000/- dated 24.05.2013 vide cheque No.613974 and Rs. 1,00,00,000/- dated 07.06.2013 vide cheque No. 561096 from the account Nos. 10010100001249 and 100102000009232 of SMVSSL to the account No. 100101000010844 for Backward Region Govt. Fund (General) of DDC-cum-CEO, Zila Parishad, Bhagalpur. He even intentionally verified transaction of Rs.28,00,000/- dated 03.06.2013 from the account No.10010100001249 of SMVSSL to the account No.100101000010844 without any supporting voucher and against the banking norms.

4. Learned counsel appearing for the petitioner submits that the petitioner has falsely been implicated in the present case. Initially the petitioner was not named in the FIR. Even the name of the petitioner did not figure in the 1st

chargesheet which was submitted on 17.02.2018 and subsequently the petitioner was arraying as an accused in the supplementary chargesheet which was filed on 16.10.2020. Prior to the Srijan Scam, petitioner was a person with clean antecedent and after the Scam, surfaced the petitioner came to be implicated in four other cases other than the present one. Learned counsel for the petitioner submits that petitioner was posted as Branch Manager in Bank of Baroda, Bhagalpur Branch from May, 2011 to May, 2014. The name of the petitioner figured in paragraph No.16.22 of the supplementary Charge Sheet dated 16.10.2022 wherein only allegation levelled against the petitioner is that he had verified/cleared four cheques issued by SMVSSL in the year 2013 to be credited into the account maintained in the name of Backward Regional Grant Fund (General) of DDC-cum-DDO, Zila Parishad, Bhagalpur and further he had also cleared one cheque of Rs.28 Lacs on 03.06.2016 of SMVSSL without any supportive voucher on the basis of bank contra voucher. Further submits that the petitioner has not committed any offence as alleged in the supplementary chargesheet. He had discharged his duties as given to him and there is no allegation against the petitioner that he has cleared the cheque issued by the DDC-cum-CEO of Zila Parishad, Bhagalpur which was fraudulently transferred to the account of SMVSSL which is the core of the allegation and the petitioner has been implicated as an accused only on a presumption regarding conspiracy that he collided with other accused persons had cleared the cheques issued by SMVSSL for deposit of amount in the account of DDC-cum-CEO. There is no allegation against the petitioner that he had misappropriated the government fund or played any part or conspired in defrauding the government amount. The petitioner is not attributed with any role of illegal withdrawal or fraudulent transfer of government money and the petitioner is not a beneficiary of any of the alleged illegal withdrawal as there is no allegation that the petitioner has derived pecuniary advantage from the aforesaid act. The co-accused Prabhat Kumar Sinha, D.D.C.-cum-C.E.O., Zila Parishad in whose account, the petitioner is alleged to have transferred the amount from SMVSSL has been granted privilege of anticipatory bail by the Hon'ble Supreme Court of India vide order dated 09.08.2021 passed in SLP (Cri) No.5492 of 2020.

5. Learned counsel for the petitioner submits that one of the co-accused of RC2172017A0015 dated 25.08.2019

one Pankaj Kumar Jha has moved before the Hon'ble Supreme Court of India, New Delhi for grant of regular bail in Criminal Appeal No.484/2020 arising out of SLP (Criminal) No.1530/2020 and after hearing the parties the Hon'ble Supreme Court of India, New Delhi considered the case of the petitioner on the facts that "since the charge sheet has been submitted and investigation is complete further custody of the accused may not be necessary" and the Hon'ble Supreme Court of India, New Delhi after hearing the parties has been pleased to grant bail to the accused namely, Pankaj Kumar Jha vide order dated 17.07.2020 and in the present case chargesheet has already been submitted by the Central Bureau of Investigation and investigation is complete and there is no useful purpose would be served in keeping the petitioner in judicial custody. Majority of the witnesses are official witnesses and there is no allegation against the petitioner that either of threatening the witnesses or tampering with evidence and the present case is based on official documents and there is no chance of tampering with documents or influencing the witnesses and the petitioner is in custody since 30.11.2022.

6. Learned senior counsel for the CBI, on the other hand, has vehemently opposed the prayer for bail of the

petitioner and submits that the name of the petitioner has been figured in paragraph No.16.22 of the supplementary Charge Sheet dated 16.10.2022 wherein allegation levelled against the petitioner is that he had verified/cleared four cheques issued by SMVSSL in the year 2013 to be credited into the account maintained in the name of Backward Regional Grant Fund (General) of DDC-cum-DDO, Zila Parishad, Bhagalpur and further he had also cleared one cheque of Rs.28 Lacs on 03.06.2016 of SMVSSL without any supportive voucher on the basis of bank contra voucher and the petitioner being a Branch Manager he is sole responsible for the present occurrence.

7. Considering the aforesaid facts, petitioner is not named in the FIR, name of the petitioner figured in the supplementary Charge Sheet, period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, CBI-II, Patna in connection with Spl. Case No.14 of 2020 arising out of RC Case No.17(A) of 2017,with the following conditions:-

(I) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(III) 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)

Nitesh/-

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