IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19578 of 2023

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

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VIJAY KUMAR S/O LATE HARDEO SINGH R/O VILLAGE- DURVEY, P.S- CHANDAUTI, DISTT.- GAYA.

... ... Petitioner/s

Versus

The State of Bihar through Economic Offence Unit BIHAR, PATNA.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pushpendra Kumar Singh, Advocate
For the EOU	:	Mr. Vishwanath Pd. Sinha, Sr. Advocate Mrs. Soni Srivastava, Advocate
For the State	:	Mr. Satyendra Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

3 14-07-2023 Heard Mr. Pushpendra Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. Vishwanath Prasad Sinha, learned senior counsel, assisted by Mrs. Soni Srivastava, learned counsel appearing for the Economic Offences Unit, Bihar as well as Mr. Satyendra Narayan Singh, learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Special Case No.08 of 2021, arising out of Economic Offences P.S. Case No.03 of 2021, registered for the offence punishable under Sections 409, 467, 471, 120(B) of the Indian Penal Code and Section 13(2) read with Section 13 (1) (a) of the Prevention of the Corruption Act, 1988, pending in the Court of learned Special Judge, Vigilance-1, Patna.

3. The prosecution case, in brief, is that 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 and the same amount has been defalcated under a criminal conspiracy. Earlier this case was being investigated by the District Police, but later on as per the letter of Home Department the Investigation of this case has been entrusted to Economic Offence Wing. It is alleged that during investigation it has come to light that District Welfare Officer, Aurangabad, in connivance with his staff 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. It is further alleged that during enquiry District Welfare Officer, Aurangabad, was found to be running total 20 bank accounts in his name during the year 2012 to 2016 and uptil now details of only 08 accounts and vouchers have been received in which it has been found that by committing forgery and fraud the District Welfare Officer, Aurangabad, illegally transferred the amount of scholarship in those accounts.

4. Further it is alleged that on correspondence with the District Education Officer, Aurungabad, 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 it is alleged that 19 more schools were found in which the amounts were not transferred in the account of Vidyalaya Shiksha Samiti rather to other accounts and a sum Rs.6,24,27,000/- were received and later on misappropriated. Further 17 schools were found guilty of receiving excess amount of Rs.1,61,83,500/- as per ratio of student registered in those schools. It is 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 and deliberately ignored the process causing the Incharge Headmaster and other related officials jointly misappropriate the fund which was meant for scholarship of scheduled castes and scheduled tribes and backward caste student. In this way finally it has been alleged that a total sum of Rs.11,17,96,400/- has been misappropriated and grabbed by the petitioner and other accused persons, the details of which has been given in Annexure-1 to Annexure-3 of the FIR.

5. It is submitted by learned counsel for the petitioner that petitioner is quite innocent and have committed no offence. He has been falsely implicated in this case. No such occurrence, in the manner as alleged, has ever taken place. The petitioner was posted as Scholarship Assistant in the Office of District Welfare Office, Aurangabad but he was not involved in any criminal act done by the co-accused rather was under legal obligation to comply the orders of his superior officers (District Welfare Officer, Aurangabad). He further submits that the involvement of the petitioner in this case has been surfaced in the course of investigation of Salaiya P.S. Case No.78 of 2017 on the basis of confessional statement of co-accused and besides this there is no direct or legal evidence to show the involvement of the petitioner in this case. The petitioner has been made only scapegoat in this case. Petitioner has one criminal antecedent, as also mentioned in para-3 of the bail application.

6. Learned APP for the State as well as learned senior counsel for the EOU opposed the prayer for anticipatory bail. It is submitted by the learned senior counsel for the EOU that from the perusal of para- 59, 60, 61, 67, 68 and 69 of the case diary, it is apparent that the witnesses, examined by the

Investigating Officer under Section 161 of Cr.PC have fully supported the prosecution case. In para-59, the Head Clerk of District Welfare Office, Aurangabad, Amresh Ram has specifically stated that the petitioner was actively involved in this case. In paras-60 and 61, the witnesses have also named the petitioner as one of the culprit of this case. In this regard the ratio laid down by the Apex court in the case of **Indresh Kumar vs. State of Uttar Pradesh** in **Cr. APP. No.938 of 2022** may also be taken into consideration in which it has been observed that the statements made under Section 161 of Cr.PC. are relevant in considering the prima facie case against an accused in an application for grant of bail in cases of grave offence. It is further submitted that this is not a fit case for grant of anticipatory bail to the petitioner as there is ample of evidence on record against him.

7. Having regard to the facts and circumstances of the case as well as considering the arguments advanced on behalf of the parties as there are ample evidence available against the petitioner in the case-diary, I am not inclined to enlarge the petitioner on bail. The prayer for grant of anticipatory bail on his behalf is hereby rejected.

8. However, if the petitioner surrenders before the

learned Court below within a period of six weeks from today and seek for regular bail, the learned Court below shall pass the order on the same day, in accordance with law.

(Anjani Kumar Sharan, J)

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