IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23178 of 2022

Arising Out of PS. Case No.-20 Year-2017 Thana- C.B.I CASE District- Patna

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Naluparayil Varghese Raju @ N.V. Raju @ Naluparayil Anand Varghese Raju @ N.V. Raju Son Of Anand Senpati Resident Of Mohalla Jogsat, Chandi Prasad Lane, P.S.- Kotwali, District - Bhagalpur.

... ... Petitioner/s

Versus

The State Of Bihar through S.P., CBI, New Delhi

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar Sinha, Advocate
	:	Mr. Ranjeet Patel, Advocate
For the Opposite Party/s(CBI)	:	Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

9 17-02-2023 Heard learned counsel for the petitioner and learned senior counsel for the Central Bureau of Investigation (CBI).

Petitioner seeks regular bail in connection with Special Case No.8 of 2019 arising out of R.C. Case No.20/A/2017(arising out of Saharsa Sadar P.S. Case No.850 of 2017 registered for the offences punishable under Sections 120B, 406, 409, 419, 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with 13(1)(c)(d) of Prevention of Corruption Act.

As per the prosecution, the informant alleged that there has been misappropriation of funds from the account of Special Land Acquisition office, Saharsa transferred to the account of Srijan Mahila Vikas Sahyog Samiti Ltd, Bhagalpur thereafter according to the written report an FIR was registered against the officers of concerned office.

The main submissions advanced by the learned counsel Mr. Shivendra Kumar Sinha for the petitioner are that against the petitioner there is a simple allegation of filling some of the alleged cheques but except this there is no any other allegation and in this matter no embezzlement was committed as the alleged withdrawn amount was returned back to the concerned bank account and against the petitioner there are criminal antecedents of seven cases in which he has got bail in three cases and petitioner's signature was not found on the alleged cheques and he is not named in the FIR. Further submission is that the petitioner is a businessman and visited the bank concerned almost everyday for his business transaction and he was in the habit of providing help to the needy persons and in this connection he filled up the necessary details on the alleged cheques to provide help to the concerned cheque holders and petitioner is neither a Government employee nor the bank employee of the concerned bank and as per the prosecution he is simply stated to be the part of the alleged conspiracy, while in actual he never participated in the alleged conspiracy with the main accused namely Manorma Devi and during investigation he always cooperated with the investigating agency and against him the investigation has been completed and he has been languishing in jail since 24.02.2022.

On the contrary, learned senior counsel Mrs. Nivedita Nirvikar appearing for the CBI has vehemently opposed the bail prayer and submitted that the instant matter relates to the embezzlement of more than Rs.163 crores and the said offence was committed in furtherance of conspiracy hatched up by several persons and the petitioner was a part of the said conspiracy and he admittedly filled in eight cheques which were found forged and merely due to depositing the alleged amount back to the concerned bank accounts, the gravity of the offence is not reduced and in the alleged conspiracy he played an active role in misappropriation of Government funds and he has been chargesheeted in other cases of similar offences related to Srijan Scam and during investigation sufficient oral evidence of the witnesses as well as expert's opinion supported the allegation concerned to the petitioner as to filling the alleged cheques by him. Further submission is that against the petitioner the charge-sheet was filed on 26.09.2019 and the concerned trial Court proceeded against him for the chargesheeted offences and thereafter all the processes were exhausted but he did not appear and deliberately avoided his appearance before the trial Court and finally he was arrested on 24.02.2022.

Heard both the sides and perused the FIR. The instant matter relates to embezzlement of about Rs.163 crores of Government funds and against the petitioner there is serious and direct allegation of having filled some of the alleged cheques which were used in drawing the alleged amount of Government money which was embezzled by co-accused persons in furtherance of conspiracy of which petitioner is stated to be a part and upon the alleged cheques some relevant entries were found in the writing of the petitioner as per the expert's opinion. Learned counsel for the petitioner has mainly argued that some co-accused persons namely Barun Kumar, Sarita Jha, Bansidhar Jha, Sant Kumar Sinha and Gyanendra Kumar have been granted bail by different Benches of this Court vide orders passed in Cr. Misc. Nos.36290 of 2021, 35617 of 2021, 15050 of 2021, 45794 of 2021 and 47407 of 2021 respectively and the case of present petitioner stands on similar footing from them. Though as per the said submission, some co-accused persons have been granted the privilege of bail by different benches of this Court but in view of petitioner's involvement in seven criminal cases of same nature as mentioned in the paragraph No.3 of the petition and as per the submission of learned counsel for the CBI after the completion of investigation, the petitioner evaded his appearance before the trial Court and finally he was arrested in the present case and moreover the nature of allegation concerned to the petitioner as to filling up the relevant entries in the alleged eight cheques by him which is an admitted position, the petitioner cannot claim to be at similar footing with the said co-accused persons who are on bail. Furthermore, the economic offence like the present matter have deep rooted conspiracy and involve huge loss of public funds needs to be viewed seriously and such economic offence should be dealt with a different approach in the matter of bail as such crimes are professionally committed by white colored people which inflict severe injuries of both health and wealth of the nation. In this regard, the observations and principles made/laid down by the Honourable Supreme Court in the case of Nimmagadda Prasad vs. Central Bureau of Investigation reported in 2013(7) SCC 466 are relevant.

In the light of the above-discussed facts, this Court is not inclined to accept the petitioner's prayer for bail in the present matter. Accordingly, his bail prayer stands rejected.

(Shailendra Singh, J)

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