IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26426 of 2022

Arising Out of PS. Case No.-9 Year-2018 Thana- C.B.I CASE District- Patna

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Hare Krishna Adak S/o Late Abinash Chandra Adak R/o village- Jatimati, P.O.- New Township Digha, P.S.- Digha, Distt.- Purb Medinipur, West Bengal- 711301

... ... Petitioner/s

Versus

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

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Uday Pratap Singh, Advocate
For the Opposite Party/s : Mr.Bipin Kumar Sinha,

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 25-01-2023 Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Special Case No. 02 of 2019-cum- RC 9/A/2018 arising out of Banka P.S. Case No. 539 of 2017 for the offence registered under Section 120B read with 409, 420, 467, 468, 471 of the Indian Penal Code and Sections 13(2) read with 13(1)(c) & 13(1)(d) of the Prevention of Corruption Act, 1988.

It is alleged that during the period 2002 to 2014, the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled a huge sum of money. It is also alleged that an account bearing no. CA/99 was opened by the District Land Acquisition Officer, Banka in the year 2002 in official capacity in the Bhagalpur Central Co-operative Bank Limited, Banka Branch, which was operational during the period 2002 to 2014 and the last transaction was done on 05.08.2014 and an amount of Rs. 5,44,162/- was withdrawn, whereafter the balance in the account became ‘zero’. Upon examination of the bank statement and the cheque issuing register of the said account, it has transpired that though money was withdrawn vide cheques no. 91801, 91802, 91804 and 91805 by the then Land Acquisition Officer, Banka, however, in the cheque issue register, cheque no. 91801 has not been mentioned and upon a query made from the Bhagalpur Central Co-operative Bank Limited, Banka Branch, it was informed by the Bank that though the cheques starting from 91801 had been issued but there is no signature of the recipient in the receiving register. It has also transpired that the aforesaid four cheques, totaling to a sum of Rs. 7 crores had been withdrawn during the period 14.04.2009 to 14.08.2009, fraudulently. The then Land Acquisition Officer, Banka has also been alleged to have issued cheques totaling to a sum of Rs. 2 crore, apart from other amounts and on the back of the same, it has been mentioned as follows :- "वसूली के उपरांत अदाता के खाते में जमा किया जाएगा ", whereupon the said amounts had been transferred in the account of S.M.V.S.S.L. i.e. Srijan Mahila Vikash Sahyog Samiti Ltd. through the Indian Bank, Bhagalpur Branch as also through the Bank of Baorda, Bhagalpur Branch. Similarly other sums of money were also diverted in the aforesaid account, inasmuch as the cheques issued by the then Land Acquisition Officer in favour of D.L.A.O. Banka was not credited in the account of D.L.A.O. Banka but had been transferred to the account of S.M.V.S.S.L. fraudulently.

As far as the petitioner is concerned, who was then posted as Assistant Manager at the Indian Bank, had got the cheques in question, issued by the District Land Acquisition Officer, processed in the office of the Indian Bank and had then issued Indian Bank O.B.C. no. 277 dated 20.07.2009 to the Bhagalpur Central Co-operative Bank Limited, Banka Branch vide A/c no. 82272612 in the name of Srijan Mahila Vikash Sahyog Samiti, Sabour, deliberately ignoring the basic difference in payee's name in deposit slip and the said cheques.

It is also alleged that the petitioner had, in conspiracy with other officials of the Indian Bank, Bhagalpur Branch, processed cheque no. 91804 in the bank system, even after having seen the illegal endorsement of Manorama Devi, Secretary, S.M.V.S.S.L., on the back side of the said cheque, whereafter endorsement was made fraudulently as follows :- *"payees account will be credited on realization",* whereupon the said transaction was processed further and a demand draft amounting to a sum of Rs. 1,50,00,000/- was issued in favour of Indian Bank Branch, Bhagalpur and the petitioner got the proceeds of D.D. no. 43821 entered in the Indian Bank Parking A/c no. 730136418, whereafter the proceeds of the said Demand Draft was debited from the said Parking Account to the A/c no. 822726120 of S.M.V.S.S.L. and in this manner, a sum of Rs. 1,50,00,000/- and other amounts were fraudulently misappropriated and diverted from A/c no. CA/99 to A/c no. 822726120 of S.M.V.S.S.L. In fact, the petitioner had also engaged in criminal conspiracy and by abusing his official position, has fraudulently misappropriated the funds meant to be credited in the account of D.L.A.O. Banka by fraudulently making illegal and fraudulent entries in the Bank system and diverting the said amount to the account of S.M.V.S.S.L.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is languishing in custody since 04.03.2022. The learned counsel for the petitioner has further submitted that the petitioner is accused in 09 cases but he is on bail in six of them. It is next submitted that most of the co-accused persons have already been granted the privilege of bail by co-ordinate Benches of this Court vide orders dated 10.11.2020, 23.08.2021, 10.12.2021 and 24.01.2022, passed in Cr. Misc. no. 24981 of 2020, Cr. Misc. no. 10385 of 2021, Cr. Misc. no. 40041 of 2021 and Cr. Misc. no. 50551 of 2021, respectively. It is also submitted that considering the factual aspect of the matter, the Hon'ble Apex Court has also allowed the prayer of bail of one of the accused of Srijan Scam case (RC no. 15/A/17) namely Pankaj Kumar Jha, by an order dated 17.07.2020, passed in Crl. Appeal no. 484 of 2020. Lastly, it is submitted that since the petitioner has already joined investigation and has cooperated with the investigating agency i.e. the C.B.I., there is no reason to deny bail to the petitioner, especially in view of the fact that the charge sheet has already been filed *qua* the petitioner herein.

Per contra, the learned counsel appearing for the C.B.I. has vehemently opposed the prayer for bail but has not denied the fact that the investigation is complete, hence custodial interrogation might not be required now.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also considering the parity of the case of the petitioner with that of the co-accused persons who have already been granted bail by co-ordinate Benches of this Court, I deem it fit and proper to admit the petitioner to the privilege of bail.

Accordingly, the petitioner, above named, is directed to 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 learned Special Judge, C.B.I.-II, Patna in connection with Special Case No. 02/2019-cum-RC 9(A)/2018 arising out of Banka P.S. Case No. 539 of 2017.

(Mohit Kumar Shah, J)

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