

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29482 of 2023

Arising Out of PS. Case No.-19 Year-2017 Thana- C.B.I CASE District- Patna

Md. Naiyer Alam Son Of Late Basiuddin R/O-8 Subhash Path Chak,
Kishanganj, P.S.-KISHANGANJ, Distt.-KISHANGANJ (BIHAR)

... .. Petitioner/s

Versus

The Union of Inida Through The Central Bureau Investigation. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshul, Advocate
For the C.B.I.	:	Mr. Nivedita Nirvikar, Spl.P.P.
For the Bank of Baroda	:	Mr. Sanjeev Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 08-08-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of C.B.I.

2. Let the defect(s), if any, be removed within a period
of four weeks from today.

3. The petitioner seeks bail in connection with Kotwali
(Tilkamanjhi) P.S. Case No. 517 of 2017 registered for the offence
under Sections 409, 419, 420, 467, 468, 471, 120-B/34 of the
Indian Penal Code give rise to R.C. Case No. 19(A) of 2017
corresponding to Special Case No. 07 of 2019 in which C.B.I. has
submitted charge-sheet under Sections 120-B read with 409, 420,
467, 468 and 471 of the Indian Penal Code and under Section 13(2)
read with Sections 13(1)(c) and 13(1)(d) of the Prevention of
Corruption Act, 1988.

4. The accused/petitioner is named in the F.I.R. and is in



custody since 14.02.2023.

5. The allegation against the petitioner is to give instructions to diverse an amount of Rs. 13,89,63,512/- (Rupees Thirteen Crore Eighty-nine Lac Sixty-three Thousand Five Hundred Twelve only) in the account of Srijan Mahila Vikas Sahyog Samiti Ltd. (SMVSSL), Bhagalpur in conspiracy with Late manorma Devi, Secretary, SMVSSL from the account of DUDA (District Urban Development Agency), Bhagalpur, while employed in Bank of Baroda, Bhagalpur alongwith other unnamed co-accused persons.

6. Learned counsel, Mr. Anshul, while appearing on behalf of the petitioner submitted that name of petitioner was figured at 16.1 and 16.5 of the charge-sheet, which was submitted on 25.09.2019 vide charge-sheet no. 09/2019 dated 25.09.2019. It is submitted that the alleged transactions were verified by the other officials of Bank and officers credited it into the bank account of SMVSSL Srijan to the tune of aforesaid rupees. It is submitted that the high value government cheque was never received through normal procedure of Drop Box but were brought to the branch by Md. Sarfaraj Uddin (scale-III) manager, posted since 2014 and Atul Raman, also a manager. It is submitted that cheque no. 9079 dated 27.10.2016 for Rs. 6,00,00,000/- (Rupees Six Crore only) was issued in the name of 'Karyapalak Abhiyanta, Zila Shehri



Vikas Abhikaran, Bhagalpur' and was presented in the Branch of Md. Sarfarazuddin and the then manager i.e., petitioner and same amount was credited in the account of SMVSSL by Mrs. Amulya Rama being maker and Ms. Mona Lis being checker, both officers of Bank of Baroda, Bhagalpur. It is submitted that petitioner implicated in this case only for the reason that he gives instruction to credit the aforesaid cheque in the account of SMVSSL but no document bears his signature and, as such, there is nothing to show that he was in touch with officials of SMVSSL. It is submitted that the Srijan Scam was going on much prior to joining of the petitioner as a clerk in Bank of Baroda, Bhagalpur and the whole set up was being lodged by the old staffs. It is further submitted that petitioner was not entrusted with any properties nor dishonestly misappropriate any amount for his own use in violation of any law. It is submitted that petitioner not appears any beneficiary out of alleged transactions. While concluding the argument, it has been submitted that petitioner found involved in two more criminal cases arises from similar transactions and moreover, investigation of this case has been complete for which charge sheet has been submitted and as such, there is no chance of tempering with evidence.

7. Learned senior counsel, Mrs. Nivedita Nirvikar appearing on behalf of the C.B.I., while opposing the prayer of



bail submitted that the petitioner being manager of Bank of Baroda in collusion with officer bearers of Srijan Mahila Vikas Sahyog Samiti Ltd. dishonestly misappropriate the amount of DUDA (District Urban and Development Agency). Learned senior counsel further submitted that the economic offences like the present have deep rooted conspiracy and involvement as such caused huge loss of public funds which to be viewed seriously and while submitting so learned senior counsel of C.B.I. relied upon the report of Hon'ble Supreme Court in the case of *Nimmagadda Prasad Vs. Central Bureau of Investigation* reported in (2013) 7 SCC 466. While concluding the argument it has been fairly conceded by learned senior counsel that investigation of this case has been completed, charge-sheet submitted and it appears that there is no further custodial requirement of petitioner in this case.

8. Considering the facts and circumstances as mentioned above, and by taking note of the fact as petitioner not appearing any beneficiary, where maximum allegation appears regarding dereliction of duty while verifying the signature of drawee of the cheque, which too based upon reporting of other bank officers, coupled with the fact that charge-sheet has already been submitted, where petitioner is in custody since 14.02.2023, accordingly, the petitioner, above named, is directed to be released on bail in connection with Special Case No. 07 of 2019



arising out of R.C. Case No. 19(A) of 2017 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, CBI-II, Patna/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C., with further conditions:

“(i) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(ii) That one of the bailors shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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