IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30422 of 2022

Arising Out of PS. Case No.-14 Year-2017 Thana- C.B.I CASE District- Patna

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Dinkar Tigga, aged about 63 years, Gender-Male, Son of Late Abnezar Tigga Resident of Village- Patel Nagar Road No.1, Hesag Near Vasundhara Apartment, Hatia, P.S.- Jagarnathpur, Distt.- Ranchi (Jharkhand).

... ... Petitioner/s

Versus

The Central Bureau of Investigation (CBI), New Delhi.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Pratap Singh, Adv.
For the CBI : Ms. Nivedita Nirvikar Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

7 06-02-2023 Heard learned counsel for the petitioner and learned senior counsel representing the Central Bureau of Investigation *(for brevity 'CBI')*.

The petitioner seeks bail in connection with Special Case No. 12 of 2020 arising out of R. C. 14/A/2017, Kotwali (Bhagalpur) PS Case No. 505/2017 registered for the offence punishable under Sections 120B r/w Sections 409, 420,467, 468 and 471 of the Indian Penal Code and Sections 13(2) read with 13(1)(d) of the Prevention of Corruption Act,1988.

The case arises out of a First Information Report *(for brevity 'FIR')* bearing Bhagalpur Kotwali (Tilkamanjhi) PS Case No. 505 of 2017, registered on 10/08/2017 by the office of the *Zila Nazarat Shakha* at *Bhagalpur,* related to illegal transfer and misuse of funds from Government Bank accounts in Bhagalpur and Saharsa. The said case was re-registered by the C*BI* on transfer of the case vide Notification under Section 6 of the Delhi Special Police

Establishment Act, 1946 *(for brevity 'DSPE Act, 1946)* issued by the Home Department Government of Bihar. The Government of India also issued notification dated 21/08/2017, under sub-Section (1) of Section 5 read with Section 6 of the DSPE Act 1946, for extending the powers and jurisdiction of the members of the DSPE to the whole of the State of Bihar for investigation, supervision and inquiry into above noted FIR lodged by the 'Zila Nazarat Shakha'.

The brief substance of allegation in the FIR is diversion of huge funds from the accounts of District Magistrate, Bhagalpur to the accounts of 'Srijan Mahila Vikas Sahyog Samiti Limited *(for brevity 'SMVSSL').* The investigation was carried on for more than three (03) years.

Charge-sheet was submitted on 18/03/2020. As per charge-sheet, cheque amounting to Rupees 20,00,000 (Twenty Lakhs) in favor of '*SMVSSL'* issued under forged signature of a co-accused, the then District Magistrate, Bhagalpur, was entered and verified by the petitioner, as an Assistant Manager of the Indian Bank at Bhagalpur. It is alleged that petitioner has passed several cheques from the account of the District Magistrate, Bhagalpur, maintained in the Indian Bank, in favour of *SMVSSL*, whereas all these cheques contained forged signature of the then District Magistrate, Bhagalpur, as proved by Central Forensic Science Laboratory *(for brevity 'CFSL'*).

Learned counsel for the petitioner submits that charge-sheet does not indicate that petitioner in any manner has benefited from the alleged passing of cheques by him. The petitioner has not been named in the FIR. There is no material in the charge-sheet to indicate the petitioner's linkage with the *SMVSSL*. During clearance of such high value cheques, there is involvement of staff and officers at various levels. Therefore, it cannot be said that the petitioner only has passed the cheques. The allegations are based on surmises and conjectures. The petitioner has cooperated in the investigation of the offence and no application was made for his arrest by the Investigating Agency, during the course of investigation. In fact, the petitioner has been implicated in three other cases, arising out of similar transaction, which together constitute, what is known in common parlance as “Srijan Scam”. While he was in custody, on his application he has been remanded and is in custody in this case since 25/03/2022. Having similar allegations in one of the other cases, namely, RC case 9A of 2018, petitioner has been allowed bail.

Learned Senior Counsel for the C.B.I. submits that the charge-sheet manifests petitioner’s role in the criminal conspiracy as he has facilitated the passing of several cheques issued from the account of the District Magistrate, Bhagalpur, maintained with the Indian Bank in favour of *SMVSSL*, all of which were bearing forged signature of the then District Magistrate, Bhagalpur, leading to misappropriation of huge amounts of public money.

In the counter-affidavit, the Investigating Agency has averred that if petitioner is enlarged on bail, he may influence the witnesses of the case or he may evade the trial proceedings.

This Court, after hearing the parties would take into consideration the nature of accusations, emerging from the charge-sheet, the material available, as taken note of above, and submission that clearance of high value cheques is done by a process involving many officers and employees. The Court would also take into consideration the submission that charge-sheet does not allege that petitioner has gained any financial benefit from the transaction. There are also undisputed facts that he has cooperated in the investigation upto the submission of charge-sheet, and that he has been granted bail in RC case No. 9A of 2018, having similar allegations. His period of custody is now more than 10 months. He has also claimed parity with other co-accused, namely, Ram Krishna Jha, Ajay Kumar Pandey, Barun Kumar, Sarita Jha and Banshidhar Jha @ Vanshidhar Jha @ Vanshidhar who have been allowed bail in

Criminal Misc. Nos 13523 of 2021, 6093 of 2021, 35666 of 2021, 35842 of 2021 and 52560 of 2021 respectively.

Insofar as the averment in the counter affidavit that petitioner may influence the witnesses, this Court would find that assertion is not supported by any material particulars as to which of the witness, he has tried to influence, and in what manner. There is nothing more than a generalized apprehension expressed in the counter affidavit without any material basis. The same, therefore, cannot be a reason to conclude such propensity of the petitioner to deny regular bail.

The Court, therefore, is inclined to accept the submissions advanced by the learned counsel for the petitioner, as noted above, so as to allow him bail. The consideration is for the limited purposes of grant of bail and may not be deemed as an expression of any opinion by this Court on the merits of the matter which is yet to be determined at the trial or for any other purposes.

Petitioner's prayer for bail is allowed.

Let the petitioner, above named, 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 the learned Special Judge, CBI-II, Patna, in connection with Special Case No. 12 of 2020 cum- R. C. 14/A/2017 arising out of Kotwali (Tilkamanjhi) PS Case No. 505 of 2017, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii)That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(iii) The petitioner shall not leave the country without permission of the trial Court.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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