

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32164 of 2022

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

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Naluparayil Anand Varghess @ Naluparayil Varghess Anand @ N.V. Raju
aged about 48 years Gender male, S/o Sri Anand Senapati Resident of
Mohalla- Jogsar, Chandi Prasad Lane, P.S.- Adampur, Dist- Bhagalpur. At
Present Residing At- Adyawati Tower, Flat No.402, Kachahari Chowk, Police
Line Road, P.S.- Akampur, Dist- Bhagalpur. Permanent Resident of Plot
No.300/10/22, Kokila Garden, Phase-2, Pokhripur, Bhuneshwar, District-
Khurd, Orissa.

... .. Petitioner/s

Versus

Central Bureau Of Investigation (C.B.I.), 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

9 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 R. C. 14/A/2017, giving rise to Special No. 12 of 2020 arising out of Kotwali (Bhagalpur) PS Case No. 505 of 2017 registered for the offence punishable under Sections 120B, 409, 420, 467, 468 and 471 of the Indian Penal Code and Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act.

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 CBI 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 in the instant case has been submitted on 18/03/2020.

As per charge-sheet the petitioner has filled up the cheques which were used for diverting Government funds from the accounts of District Magistrate Bhagalpur. There is also material to show that the petitioner was a regular visitor to the House of the prime accused, as well as office of *SMVSSL*. The high value cheques filled in by the petitioner where containing forged signature of the District Magistrate. The material, therefore, establishes the petitioner's role in the conspiracy which led to siphoning/misappropriation of huge Government funds. He is accused in seven (07) other such cases, all of which together constitute, what in common parlance is known as the "Srijan Scam". Out of these seven cases, petitioner is on bail in two cases i.e. RC 13A/ 2017 and RC 11 A of 2017.

The learned counsel for the petitioner submits that he is



not named in the FIR. There is no allegation that he has withdrawn any money or showing any benefit flowing to the petitioner as a result of alleged diversion of funds by use of forged cheques, The petitioner is neither an employee of the Bank, nor an employee of *SMVSSL*. His implication is on account of suspicion arising out of his proximity with the prime accused of the scam. Filling up of cheques *per se* cannot constitute any offence or establish petitioner's participation. He has already been allowed bail in RC case No.11(A) of 2017, 13(A) of 2017. Several co-accused, namely, Arun Kumar Singh, Md. Sarfaraj Uddin, Naluparayil Anand Varghese @ Naluparayil Varghese Raju @ N.V. Raju, Naluparayil Varghess Raju @ N.V. Raju have been allowed bail in Cr. Misc. Nos. 22141 of 2020, 3520 of 2021, 28986 of 2022, 37318 of 2022 respectively.

He is in custody in connection with this case since 25/03/2022, being the date on which he was remanded while in custody in connection with another case. The petitioner has cooperated in the course of investigation and charge-sheet has already been submitted. There is no likelihood of the petitioner's abscondence or his tampering with evidence or influencing any witness.

Learned Senior counsel representing the CBI submits that the charge-sheet contains material to substantiate the petitioner's handwriting in the filling up of the cheques, which were used for diversion of huge amount of Government funds. His association with the prime accused also has emerged in the course of investigation. There is sufficient material, therefore, to conclude his active participation in the conspiracy, leading to huge misappropriation/diversion of Government funds.

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.

After hearing the parties, this Court would take into



consideration the nature of allegation and material collected in the course of investigation in the charge-sheet, as noted above. This Court would also consider the submission advanced on behalf of the petitioner that filling up of cheques, *per se* cannot make out an offence against the petitioner and that there is no material to show that he has benefited from encashment of the cheques allegedly forged. It may also be noted that he is on bail in RC case Nos.11(A) of 2017 and 13(A) of 2017 arising out of other cases of the “Srijan Scam”. There is no allegation that he has not cooperated with the investigation. The other co-accused persons, have also been allowed bail.

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.

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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