IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56286 of 2021

Arising Out of PS. Case No.-824 Year-2018 Thana- MOTIHARI TOWN District- East Champaran

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GULSHAN KUMAR TIWARI Son of Satya Bhushan Tiwari Resident of Village- Ashok Pakri, P.S.- Pipra, District- East Champaran (Bihar).

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Vigilance Department, Govt. of Bihar, Patna
3. The Economic Offence Unit, through Inspector General, Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Dilip Tondon, Advocate Ms. Anu Priyadarshini, Advocate
For the State	:	Mr. Rajendra Prasad Nat, APP
For the E.O.U.	:	Mr. Vijay Anand, Advocate
For the Vigilance Dept.	:	Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

14 19-05-2023 **1.** Heard learned counsel for the petitioner, learned counsel for the Economic Offence Unit, learned counsel for the Vigilance Department and learned APP for the State.

2. Petitioner seeks regular bail in connection with Motihari Town P.S. Case No. 824 of 2018 (Special 17 of 2019), dated 24.11.2018 registered for the offences punishable under Sections 420, 409, 467, 468, 471, 472, 120B/34 of the Indian Penal Code.

3. The main submissions advanced by petitioner's counsel are that in respect of the same set of allegation two FIRs, first the present matter and second Motihari Town P.S.

Case No. 875 of 2018 were lodged and the petitioner is not named in the present matter but he is named in Motihari Town P.S. Case No. 875 of 2018 and he has been languishing in jail since 18.03.2019 and as per FIR co-accused Jai Kishun Tiwari and Arvind Singh are the main accused who misappropriated Rs. 1,30,00,000/- and Rs. 70,00,000/- respectively and during investigation it came into light that some part of the said alleged misappropriated amount was transferred in the bank accounts of this petitioner who is brother-in-law of the said Jai Kishun Tiwari and the petitioner had no knowledge about the transfer of the alleged amount in his bank accounts by the said co-accused and the allegation against him is only that the said co-accused transferred some part of alleged amount in his bank accounts. Further submissions are that the main co-accused Jai Kishun Tiwari has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 5373 of 2021 and petitioner has also been granted bail in Motihari Town P.S. Case No. 875 of 2018 in which he is named and in the present matter his case is on better footing from the said co-accused Jai Kishun Tiwari and the main allegation of misappropriation as well as impersonation is against the co-accused persons namely, Jai Kishun Tiwari and Arvind Singh in which petitioner had no role and the alleged offences of 420, 409, 467, 468, 471 and 120B of I.P.C. are not made out against the petitioner and petitioner's trial has not started till date and other co-accused persons namely, Umesh Prasad Singh and Shardanand Singh have also been granted bail by different co-ordinate Benches of this Court vide orders passed in Cr. Misc. No. 9660 of 2019 and Cr. Misc. No. 15451 of 2019 respectively. Further submissions are that as per counter affidavit only meager part of alleged total misappropriated amount that is Rs.17,60,100/- and Rs. 14,54,000/- were transferred in the bank accounts of the petitioner and the said amounts were transferred by the co-accused in which the petitioner had no role and the petitioner was not directly involved in the alleged offence of impersonation of the real raiyat.

4. Per contra, the learned counsel for the Economic Offence Unit has vehemently opposed the prayer for bail of the petitioner and submitted that the petitioner was the part of the conspiracy with other co-accused persons and he played an active role in commission of the offences and his bank accounts were used by the co-accused persons and in the name of petitioner a house worth of rupees more than one crore was purchased by the co-accused Jai Kishun Tiwari and there is sufficient material to show the petitioner's role in commission of the alleged offences of misappropriation of the huge amount of the government money.

5. 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 and also considering petitioner's long judicial custody and the main accused Jai Kishun Tiwari having been granted bail by a co-ordinate Bench of this Court vide order passed in above-mentioned Cr. Misc. No. and some other co-accused persons detailed above are also on bail and as per the report of court below, petitioner's trial has not started till date and as per the facts mentioned in the counter affidavit, petitioner does not appear to be directly involved in the alleged crime and mainly his bank accounts were used by the co-accused persons in transferring some part of the alleged misappropriated amount, I deem it fit and proper to admit the petitioner to the privilege of bail.

6. Accordingly, let the petitioner named-above be enlarged 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 Court concerned in connection with Motihari

Town P.S. Case No. 824 of 2018 (Special 17 of 2019) on the following condition:-

(i) Petitioner shall co-operate in the trial and shall be represented on each and every date fixed by the court below and shall remain physically present as directed by the court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

(Shailendra Singh, J.)

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