IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55120 of 2023

Arising Out of PS. Case No.-2 Year-2019 Thana- C.B.I CASE - TR District- Patna

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VIJAY KUMAR YADAV @ VIJAY YADAV Son of Dilip Gope Resident of 19, Peace Road, Lalpur, Behind Aashish Girls Hostel, P.S.- Lalpur, Dist.- Ranchi, Presently residing at Phase -I, Laxmi Vihar, Roorkee, P.S.- Roorkee, District - Roorkee (Uttarakhand). ... ... Petitioner/s

Versus

Central Bureau of Investigation ... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Abinash Kumar, Advocate
For the Opposite Party/s : Mrs.Nivedita Nirvikar, Sr.Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

5 13-12-2023 Heard Mr.Abinash Kumar, learned counsel for the petitioner and learned counsel appearing of behalf of the C.B.I.

2. The petitioner is apprehending his arrest in connection with Spl. Case No.02 of 2021, arising out of R.C. No.2(S) of 2019 registered for the offences punishable under Sections 120B, 420, 467, 468 and 471 of the Indian Penal Code but after investigation chargesheet has been submitted under Sections 120-B read with Sections 420,467,468 and 471 of IPC and Section 13(1)(a) of the P.C.Act, 1988.

3. As per the prosecution case, Rs. 4.44 crores were withdrawn on the basis of forged and fabricated documents from Corporation Bank, Kankarbagh Branch, Patna in the name of 23 different firms.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the

present case. The petitioner is a Chartered Accountant and at the time of alleged occurrence M/S Ram Shankar @ Associates was Chartered Accountant of the Bank and at the relevant time the petitioner has prepared the balance sheet, profit and loss account and the annexures too and forming part of balance sheet of the clients on the basis of computerized set of books of accounts prepared in Tally 7.2 and Tally 9 version, cash vouchers, money receipts, cash register and bills produced by clients before him and he has only prepared the financial statement using accounting tools and method of those clients and the petitioner has never done any type of audit of the financial statements of the respective client nor has given any audit report and the petitioner has no role in applying the sanction of any loan nor having any concern with any other accused persons and the petitioner has only performed his professional duty of his respective clients on bonafide believe that the documents produced by them. Further submits that the petitioner has never prepared any projected financial statements nor has signed on any paper of any person, who are alleged to be loanee nor has ever met with them and it appears that the forged stamp paper was prepared for some other person and the same was prepared wrongly in the name of the petitioner. The petitioner is physically disabled and having orthopedic problem and he is unable to move anywhere and he is under treatment since long and from a bare perusal of the FIR as well as chargesheet, it would transpire that the involvement of the petitioner in the alleged occurrence does not whisper nor the petitioner has played any role in sanction of the alleged loan to any alleged loanee. Further submits that the co-accused persons, namely, Kumar Vibhor @ Vibhor and Saurabh Kumar have been granted privilege of anticipatory bail by a Coordinate Bench of this Hon'ble Court vide orders dated 22.06.2023 and 03.08.2023 passed in Cr. Misc. Nos. 7415 of 2023 and 38630 of 2023 respectively.

5. Learned counsel for the C.B.I., on the other hand, has vehemently opposed the prayer for anticipatory bail of the petitioner and submits that the petitioner is a qualified Chartered Accountant who was working as partner of a CA firm M/s Ram Shankar and Associates. In this firm Shri Ram Shankar was Managing Partner at Head Office Patna and the petitioner was Branch In Charge at Ranchi Branch and the petitioner has prepared the forged papers in respect of non-existing business of these clients filing bogus figures of sales and profit which were then certified by the petitioner as a Chartered Accountant

and it appears from the Chargesheet No.03 of 2021 that the petitioner cheated the Corporation Bank and causing a wrongful loss of Rs.3,20,20,375/-(Three Crores Twenty Lacs Twenty Thousand Three Hundred and Seventy Five) which was outstanding amount against 14 loan accounts detailed in the chargesheet out of 23 loan accounts mentioned in the FIR. It has transpired during investigation that the petitioner with the connivance of other co-accused persons fraudulently and dishonestly got the loans sanctioned and disbursed under various schemes on the basis of forged and fabricated financial documents which subsequently turned NPA causing wrongful loss of Rs.3,20,20,375/-(Three Crores Twenty Lacs Twenty Thousand Three Hundred and Seventy Five). Further submits that the petitioner carries one more case other than the present one.

6. Considering the aforesaid facts, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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.-1st, Patna in connection with Spl. Case No.02 of 2021, arising

out of R.C. No.2(S) of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

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

(II) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his/her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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