IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56836 of 2022

Arising Out of PS. Case No.-5 Year-2018 Thana- C.B.I CASE District- Patna

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DEEPAK KUMAR SINGH Son of Devendra Prasad Singh R/o Old Bahadurpur, Near Bazar Samiti, Rajendra Nagar, P.S.- Kadamkuan, District - Patna, Bihar.

... ... Petitioner/s

Versus

The Central Bureau of Investigation through S.P./CBI/ACU-V/New Delhi

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Vishwajeet Kumar Mishra, Advocate
For the Opposite Party/s : Ms.Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

4 25-02-2023 Heard learned counsel for the petitioner and the learned Sr. counsel for the CBI.

Petitioner seeks regular bail in connection with Special Case No.01/2021, R.C. Case No.5(A)/18 bearing Registration No.RC2172018A005 arising out of Banka P.S. Case No.505 of 2017 registered for the offences punishable under Sections 420, 120-B, 409, 467, 468 and 471 of the Indian Penal Code and Sections 13(2) read with 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988.

Allegedly, co-accused Smt. Jayshree Thakur opened an account in the name of District Land Acquisition Officer (DLAO), Banka on 02.11.2009 in the Bank of Baroda, Bhagalpur without any approval and Rs.77,00,00,000/-(Rupees

Seventy Seven Crores) was fraudulently transferred from this account to the account of the Srijan Mhila Vikas Sahyog Samiti Limited (in short “SMVSSL”) and the said accused also opened a bank account in the name of DLAO, Banka in the year 2011 in Indian Bank, Bhagalpur without any approval and Rs.5,10,00,000/- (Rupees Five Crores Ten Lacs) was fraudulently transferred from this account to the account of SMVSSL and further allegation is that huge amount of unauthorized money was deposited in the account of DLAO, Banka in Bank of Baroda, Bhagalpur on eleven instances from 05.03.2011 to 29.07.2013 and as per prosecution, the said co-accused opened various accounts in the name of DALO in different banks without approval and huge fund of various government schemes was misappropriated in conspiracy of several accused persons by transmitting the said amount in the bank account of the SMVSSL without approval and present petitioner allegedly put his signature on the cheque No.024887 dated 28.09.2011 of Rs.50,00,000/- (Rupees Fifty Lacs) favouring DLAO, Banka for crediting in the account of SMVSSL despite knowing that the cheque was in favour of DLAO, Banka while pay-in-slip was made in favour of SMVSSL.

The main submissions advanced by the learned counsel for the petitioner are that the petitioner has fair and clean antecedent, he has not been named in the FIR, his name surfaced during investigation and allegation against him finds place only in the supplementary charge-sheet dated 30.12.2020 filed by the CBI and during the alleged time, the petitioner was posted on the post of Relationship Manager in the HDFC Bank, Sabour to ensure a hassle-free and good customer experience at the Bank and the job profile of the Relationship Manager at the Bank does not include any role in providing passage to cheques into the banking system and he was never authorized to clear/put any cheque into the system and moreover it has been admitted by the prosecution that one Inderneel Kundu had input the alleged cheque as he was assigned the work of Teller when the alleged cheque was deposited and a teller works under the supervision of Branch Manager and the petitioner was not holding any post of teller authorizer, nor he was a Branch Manager which means he never supervised or controlled the teller. Further submission is that in view of the allegation made against the petitioner, a warning letter dated 04.03.2021 was issued to the petitioner in connection with the alleged cheque in question and after that HDFC Bank being the employer of the petitioner, took up the mater and Audit Committee was constituted which found out and held that the petitioner was nowhere as maker or checker in the system and thus, it is clear that he did not have any concern with clearance of the said cheque in question and the true copy of the audit report has been filed as Annexure 6 and pursuant to the inquiry into the matter and audit report's findings, he was not found guilty and subsequently he was given his due appreciation, salary hike etc. vide Annexure 7. Further submission is that there is no allegation in the entire FIR and supplementary charge-sheet suggesting any benefit derived by the petitioner or any unlawful gain accrued to him in the alleged transaction and the case of the petitioner stands on similar footing with co-accused Prabhat Kumar Sinha, who has been granted anticipatory bail by Hon'ble Supreme Court vide order passed in Special Leave Petition No.5492 / 2020 and the petitioner's trial is yet to commence and there is no need for custodial interrogation of the petitioner and during investigation, despite several rounds of interrogation, the investigating agency CBI did not think necessary for custodial interrogation from the petitioner and even did not think to arrest him and in compliance of direction given by this Court in Cr. Misc. No.51990 of 2021, the petitioner himself surrendered before the trial court but the learned trial court without considering the spirit of direction given in the said criminal miscellaneous petition, rejected regular bail prayer of the petitioner. Further submission is that similarly situated co-accused Pradyut Kumar Biswas @ P.K. Biswas @ Vishwas Shri Kalipada Biswas has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No.52625 of 2021. Further submission is that the petitioner has been languishing in jail since 07.09.2022.

Learned counsel for the petitioner has placed reliance upon a judgment of Hon'ble Supreme Court passed in the case of Chandmal @ Chandanmal v. The State of Madhya Pradesh and Anr. passed in Criminal Appeal No.359 & 360/2023[@ SLP [CRL.] No.1912 & 3112/2022] in which the Hon'ble Supreme Court expressed anguish at trial courts acting in violation of its judgments in Siddharth v. State of Uttar Pradesh and Anr. (2022) 1 SCC 676 and Satender Kumar Antil v. Central Bureau of Investigation and Anr. (2021) 10 SCC 773

On the other hand, learned Sr. Counsel appearing for the Central Bureau of Investigation (in short "CBI") has vehemently opposed the bail prayer of the petitioner and submitted that the instant matter pertains to infamous multimillion SRIJAN scam and the petitioner in conspiracy with other co-accused persons had been instrumental in illegal credit of cheque No. 024887 for an amount of Rs.50,000,00/- which was clearly drawn in the name of DLAO, Banka, in account of SMVSSL and thereby causing wrongful loss of government fund and wrongful gain to SMVSSL to the tune of Rs.50,000,00/- and as per the job profile of the petitioner, he was not supposed to collect the cheque on behalf of any customer and put any remark on the pay-in sleep but even then he presented the alleged cheque which was in favour of DLAO, Banka along with its deposit slip which was made in favour of SMVSSL and he instructed Inderneel Kundu for making entry despite the objection raised by said Inderneel Kundu as payee names on vouchers were not same and the petitioner's handwriting and signature on the cheque in question and deposit sleep was identified by said Inderneel Kundu which is sufficient to show that the petitioner was a part of the alleged conspiracy with other co-accused persons and he abused his official position for authorizing the fraudulent transaction with dishonest intention to misappropriate the government funds and thereby causing loss to government exchequer.

Heard both the sides and perused the FIR.

Admittedly, the investigation in connection with the petitioner has been completed and he was posted as Public Relation Officer at the bank concerned and as per the above submission, the petitioner was not arrested by the investigating agency during the investigation despite several rounds of interrogation from him and as per the allegation, he misused his position with regard to one cheque of Rs.50,000,00/- by making wrong authorization in writing with regard to the alleged cheque and deposit slip for crediting the cheque in question into the account of SMVSSL but the petitioner has taken the plea that he got no any type of monetary benefit from the alleged transaction concerned to the said cheque and the prosecution has not brought any direct evidence to show any monetary transaction in favour of this petitioner by other co-accused persons and the allegation concerned to the petitioner is mainly based on documentary evidences and one co-accused named above has been granted bail by a co-ordinate Bench of this Court and further the petitioner has fair and clean antecedent and in the present matter, he is facing trial.

Considering all these facts, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner 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 concerned Court in connection with Special Case No.01/2021, R.C. Case No.05(A)/2018, arising out of Banka P.S. Case No.505 of 2017.

(Shailendra Singh, J)

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