IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65381 of 2022

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

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MD. ANIS ANSARI @ MD. ANISH ANSARI S/o Late Md. Habib Ansari @ Late Md. Habis Ansari R/o Telia, P.S.- Banka, Distt- Banka.

... ... Petitioner/s

Versus

The State of Bihar through, SP, C.B.I., AC-II, New Delhi New Delhi

... ... Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 70192 of 2022

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

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VIDYANAND DUTTA Son of Late Fekan Dutta Resident of Dutta Bhawan, Bela Vihar, P.O.- M.I.C., P.S.- Bela, District - Muzaffarpur.

... ... Petitioner/s

Versus

The Union of India through The Superintendent of Police, C.B.I., Patna. Bihar

... ... Opposite Party/s

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Appearance :
(In CRIMINAL MISCELLANEOUS No. 65381 of 2022)
For the Petitioner/s : Mr. Ranjeet Patel, Adv.
For the CBI : Mr. Nivedita Nirvikar, APP
(In CRIMINAL MISCELLANEOUS No. 70192 of 2022)
For the Petitioner/s : Mr. Ram Pravesh Nath Tiwari, Adv.
For the CBI : Mr. Nivedita Nirvikar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

CAV ORDER

4 21-03-2023 Heard learned counsel for the petitioners and the learned counsel appearing for the Central Bureau of Investigation.

The petitioners seek bail in connection with Special Case No. 1 of 2021 arising out of R.C. Case No. 5/A/2018 arising out of Banka P.S. Case No. 505 of 2017 registered for the offence under Sections 120-B, 409, 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with section 13(1)(c) and (d) of the Prevention of Corruption Act, 1988.

The entire prosecution case relates to a well known scam which is known as SRIJAN Scam. An F.I.R. came into existence to the effect of illegal transfers of government funds from Bank to the account of SMVSSL account at the instance of the petitioners, herein, in collusion with the other officials of the department and the Banks.

A bare perusal of the record reveals that after institution of the F.I.R. and on the basis of preliminary investigation, the CBI initially filed charge-sheet against two co-accused, namely, Smt. Jaishree Thakur, who happens to be the then D.L.A.O., Banka and Smt. Sarita Jha, who happens to be the official of SMVSSL as their roles found to be established in a conspiracy of misappropriation of Government funds. It also reveals that co-accused, Jayshree Thakur had opened the account of DLAO, Banka in other district i.e. Bhagalpur and being the authorized signatory of the said account, she issued certain cheques in favour of DLAO, Banka which are stated to be presented in the Bank with the endorsement of official of SMVSSL for their clearance.

In order to ascertain the role of the other erring official of the department and also the bank officials in the fraudulent transfers in collusion with the DLAO, Banka, CBI kept the investigation open under Section 173(8) of the Cr.P.C. Subsequently, after completion of the investigation, supplementary charge-sheet has been filed by the C.B.I. on 30.12.2020 in which these petitioners have been categorically introduced with their acts of commission and omission.

The petitioner, namely, petitioner, namely, Vidyanand Dutta and petitioner, namely, Md. Anis Ansari @ Md. Anish Ansari have been figured as accused No.8 and accused No. 10 in the supplementary charge-sheet filed by the CBI.

Petitioner, namely, petitioner, namely, Vidyanand Dutta is stated to be the then Manager of Bank of Baroda, Bhagalpur and alleged to have acted as checker and verified two cheques amounting to Rs. 2 crores each for crediting into the account of SMVSSL despite having knowledge that the cheques were in favour of DLAO, Banka and Rs. 5 Crore was transferred without cheque by using transfer voucher.

So far as petitioner, namely, Md. Anis Ansari @ Md. Anish Ansari is concerned, he is stated to be the then Nazir in the office of DLAO, Banka and he is alleged to have filled cheque No. 401401 dated 17.08.2011 in his handwriting for transferring Rs. 11 Crore from the account of DLAO, Banka in Indian Bank to another account of DLAO, Banka in the Bank of Baroda, Bhagalpur despite any requirement and out of Rs. 11 Crore, Rs. 5 Crore was transferred to the account of SMVSSL.

It is the specific case of both the petitioners that both of them were not named in the F.I.R. nor their names have been surfaced in the first charge-sheet filed by the CBI. However, subsequently, their names have transpired in this case during course of further investigation for which the petitioners have been charge-sheeted by way of supplementary charge-sheet under Sections 120-B read with Sections 409, 467, 468, 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c) & 13(1)(d) of the P.C. Act, 1988 filed by the C.B.I. It also manifests that though the case has been instituted under Sections 120(B), 409, 420, 467, 46 and 471 of the Indian Penal Code, but according to the charge-sheet, no case under Section 420 of the Indian Penal Code is made out against the petitioners.

Learned counsel appearing for the petitioners submits that the petitioners are innocent and have been made accused in this case with an ulterior motive just to save the skin of main culprits. Learned counsel for the petitioners further submitted that the petitioners being an employee have only discharged their duties under the supervision of their higher officials. Neither they have transferred even a single farthing in their account nor they have misappropriated the Government fund in any manner.

Petitioner, namely, Vidyanand Dutta being an officer of Bank has only discharged his duties as a routine course by verifying the cheques produced before him for their clearance. Neither he being the beneficiary of the said amount in question nor he was instrumental in any manner in the alleged occurrence of financial irregularities and the misappropriation of Government funds. It is also submitted that the petitioner is aged about 70 years and is suffering from various ailments.

So far as petitioner, namely, Md. Anis Ansari @ Md. Anish Ansari is concerned, it has been contended that this petitioner being the Nazir in the office of DLAO, Banka being left with no option has executed the order of the DLAO, Banka. It has also been contended that neither this petitioner happened to be the authorized signatory of the account of DLAO, Banka nor he has transferred any government amount in any other account without permission of his competent authority. The petitioner was only the custodian of all the documents related to the Bank account and he had nothing to do with the realm of DLAO, Banka expect to execute the order. Not a single money has been credited in the account of this petitioner or any other person related to him. It has been further contended that the act for which the petitioner is charge-sheeted in this case does not prove his involvement in the alleged act of embezzlement of government funds. This petitioner, who is running in his seventies, has been languishing in judicial custody since 01.09.2022.

It is further contended on behalf of the petitioners that it would manifest from the record that several similarly situated co-accused have been granted the privilege of bail in several cases related to Srijan Scam by the different co-ordinate Benches of this Court, therefore, the case of these petitioners may also be considered for the purpose of grant of bail.

Copies of several orders of different co-ordinate Benches of this Court granting anticipatory and regular bail to the co-accused are annexed in Cr. Misc. No.65381 of 2022 as Anenxure Nos. 2 to13 and Annexure-4 series annexed in Cr. Misc No.70192 of 2022 which support the submission of the petitioners.

Per contra, learned counsel appearing for the Central Bureau of Investigation has, vehemently, opposed the prayer for bail of the petitioners and submitted that though the petitioners have not been named in the F.I.R., their names have surfaced in the entire episode during course of further investigation. The petitioners got charge-sheeted in this case by way of supplementary Charge-sheet submitted on 30.12.2020 under Sections 120-B read with Sections 409, 467, 468, 471 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c) & 13(1)(d) of the P.C. Act, 1988 by the C.B.I. She further emphasized on the paragraph Nos. 16.3.9 (Sr. No. 8 and 10) of the charge- sheet in which, according to her, role of the petitioners have been specified with the evidence in the entire case which is quite sufficient to prove their involvement in the alleged offence of defalcation of government funds warranting prosecution of the petitioners in this case. Apart from that, she submits that petitioner, namely, Md. Anis Ansari @ Md. Anish Ansari carries one case and petitioner, namely, Vidyanand Dutta carries three more cases relating to the SRIJAN Scam other than the present one.

Considering the facts and circumstances of the case and also the confined role of the petitioners in the alleged occurrence, let the, above named, petitioners be released on bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I.-II, Patna in connection with Special Case No. 01 of 2021 arising out of Banka P.S. Case No. 505 of 2017 with the following conditions:-

(1) Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

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

(3) The petitioners shall submit their passport, if they possess, before the court below and they will not leave the country without permission of the Court.

And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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)

Braj/-

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