IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69685 of 2022
Arising Out of PS. Case No.-15 Year-2017 Thana- C.B.I CASE District- Patna

==

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

==

Appearance :
For the Petitioner/s : Mr. Ram Pravesh Nath Tiwari, Advocate
For the Opposite Party/s : Ms. Nivedita Nirvikar, Sr. Advocate

==

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 04-05-2023 Heard learned counsel for the petitioner and Ms. Nivedita Nirvikar, learned senior counsel for the CBI.

Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioner seeks bail who is in custody since 01.04.2022 in connection with Spl Case No. 13 of 2020 arising out of R.C. No. 15/A/2017, F.I.R. dated 25.08.2017 for the offences punishable under Sections 120B read with 409, 420, 467, 468 and 471 of the Indian Penal Code and Section 12(2) read with 12(1)(c) and 13(1)(d) of the P.C. Act, 1988.

According to prosecution case, it is alleged that during the period 2012-14, the officials of Indian Bank, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.30,25,43,630/- from the Current Account No.6084978909 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur

Branch maintained with the Indian Bank Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-14,the proceeds of five cheques worth Rs.20 Crore, issued by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No. 6084978909 maintained with the Indian Bank, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount. It is also alleged that during the period 2012-17, the officials of the Bank of Baroda, Bhagalpur Branch and others fraudulently embezzled an amount of Rs.17,94,85,446.83 from the Current Account No.10010100013202 of the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur Branch maintained with the Bank of Baroda, Bhagalpur Branch, Bhagalpur. It is further alleged that during the period 2012-17, the proceeds of nine cheques worth Rs.30,95,28,000/- issue by the Bhagalpur Central Co-operative Bank Ltd., Bhagalpur were not credited in its current account and Sweep Account No. 10010100013202, maintained with the Bank of Baroda, Bhagalpur Branch, rather the officials of the Indian Bank, Bhagalpur Branch and others fraudulently embezzled the said amount.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case. He further submits that the petitioner is innocent and he has not committed any offence as alleged in the F.I.R. and the petitioner is not named in the F.I.R. and the name of the petitioner has been transpired during investigation and his name did not figure in the first charge sheet submitted by the CBI. He further submits that the allegation against the petitioner is that, he being the employee of a bank verified the transaction (cheque) of Rs. 2,00,78,080.00/- which was presented in the bank and later on supplementary charge sheet was submitted by the CBI in which the name of the petitioner was transpired with an allegation that the petitioner verified the said transaction as checker.

It is admitted fact that the petitioner is not the beneficiary of the said scam and during the entire course of investigation not a single penny has been seized/recovered either from his account or from his possession and admittedly, the petitioner had not issued the cheque, neither he sent the cheque nor he filed FDR. He further submits that the petitioner was not in any manner involved in the functioning of the Srijan Mahila Vikas Sahyog Saminit Ltd. (SMVSSL). He further submits that during investigation no cogent material has come during investigation to suggest the involvement of the petitioner with a criminal intention or a criminal conspiracy for embezzlement of public money and as such, no offence is made out under Indian Penal Code and Prevention of Corruption Act as alleged in the F.I.R. against the petitioner. He further submits that the CBI has concluded his investigation and submitted the charge sheet against the petitioner. He further submits that the co-accused, namely, Sarita Jha has been granted bail by the Co-ordinate Bench of this Court vide order dated 04.07.2022 passed in Cr. Misc. No. 45603 of 2021, another co-accused, namely, Atul Raman has been granted bail by the Co-ordinate Bench of this Court vide order dated 24.07.2021 passed in Cr. Misc. No. 5519 of 2021, another co-accused, namely, Bipin Kumar @ Bipin Kumar Sharma has been granted bail by the Co-ordinate Bench of this Court vide order dated 06.02.2023 passed in Cr. Misc. No. 11849 of 2022 and another co-accused, namely, Hare Krishna Adak has been granted bail by the Co-ordinate Bench of this Court vide order dated 30.09.2022 passed in Cr. Misc. No. 39490 of 2022. The petitioner is in custody since 01.04.2022.

The learned senior counsel for the CBI has vehemently opposed the prayer for bail of the petitioner and submits that after the completion of investigation, a supplementary charge sheet dated 16.06.2022 was filed against 18 accused persons including the petitioner under Section 120B read with 409, 420, 467, 468 and 471 of the Indian Penal Code and Section 12(2) read with 12(1)(c) and 13(1)(d) of the P.C. Act, 1988. She further submits that the petitioner was working as Senior Manager/Branch Operations, Bank of Baroda, Bhagalpur during the period from 03.10.2011 to 31.01.2013 and has actively participated in cheating and misappropriating the funds of Bhagalpur Central Co-operative Bank Ltd (BCCBL), in criminal conspiracy with other officials of BCCBL, Bank of Baroda and officials of SMVSSL. She further submits that the petitioner had obtained a cheque No. 540999 dated 17.04.2012 for Rs. 2,00,78,080/- from SMVSSL and the co-accused, namely, Sant Kumar Sinha has filed the said cheque in favour of "Yourself" on behalf of SMVSSL and thereafter, Smt. Sarita Jha, Manager and Smt. Manorma Devi, the then Secretary of SMVSSL signed the same. She further submits that the petitioner has verified the said cheque by pursuing his official position as a checker.

Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 the learned Spl. Judge CBI-II, Patna in connection with Spl Case No. 13 of

2020 arising out of R.C. No. 15/A/2017, subject to the following conditions:-

1. If the petitioner possesses Indian Passport, the same will surrender at the time of furnishing bail bond.

2. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

3. 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.

4. 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 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)

Vanisha/-

U		T	