IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70325 of 2022

Arising Out of PS. Case No.-20 Year-2017 Thana- C.B.I CASE District- Patna

==

Mukesh Jha, S/o Late Adya Charan Jha Permanent, R/o- Shivaji Colony, Near Resident of Dr. Amarnath Kejriwal, P.S.- K.Hat, Purnia, in the district of Purnia. At present posted as Sr. Manager-Scale-III, Bank of Baroda, Baroda Sun Tower Salt Lake, Regional Office IVth Floor, Sector-5, Kolkata, P.S.- Bidhan Nagar East, in the District- of North 24 Parganas, West Bengal

... ... Petitioner/s

Versus

The Superintendent of Police, C.B.I/ ACU-V/ AC-II/ New Delhi

... ... Opposite Party/s

==

Appearance :
For the Petitioner/s : Mr. Krishna Chandra, Advocate
For the Opposite Party/s : Ms. Nivedita Nirvikar, Sr. Advocate, CBI

==

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 19-06-2023 Heard the parties.

Petitioner apprehends arrest in a case registered for the offences punishable under Sections 120B, 409, 420, 467, 468 and 471 IPC and Section 13(2) r/w Section 13(1)(c) & (d) of the Prevention of Corruption (P.C.) Act, 1988.

This case arises from infamous Srijan Scam. The petitioner in connivance with office bearers of Srijan Mahila Vikas Sahyog Samiti Limited (hereinafter for the sake of brevity referred to as 'SMVSSL') and others is said to have fraudulently misappropriated the Government money. At the relevant time, petitioner was posted as Branch Manager of Bank of Baroda, Saharsa Branch, where huge funds from the account of Special

Land Acquisition Officer (SLAO), Saharsa were found to have illegally diverted in the account of SMVSSL. It has been alleged against the petitioner that two cheques of high value amounting to Rs. 98,38,86,195/- and Rs. 62,98,31,200/- were presented at Bank of Baroda, Saharsa for transfer of funds in the account of SLAO Bhagalpur, but the said two cheques were not processed and petitioner kept the same with him because account of SLAO at Bank of Baroda, Saharsa was having insufficient fund to honour the same. The reason for non-availability of funds in the account of SLAO Saharsa was illegal and wrongful diversion of funds of SLAO in the account of SMVSSL, Bhagalpur. Thus, CBI found that petitioner actively participated in the offence because in conspiracy with other accused persons he concealed the fact of illegal diversion of funds despite his knowledge.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. It is submitted that no specific allegation has been found against the petitioner and there is no material available on record to show that the alleged forged statement that has been recovered from the office of SLAO, Sharasa is issued either by the petitioner or by the alleged Bank of Baroda, Branch Saharsa or the cheques in question was either submitted or ever accepted by the petitioner. Some of the co-accused in connection with the Srijan Scam cases have been granted anticipatory bail by co-ordinate Bench. Charge-sheet has already been submitted and during investigation petitioner fully co-operated.

Learned counsel for the C.B.I. opposes the bail application and submits that there are sufficient oral and documentary evidences available against the accused petitioner to prove the offences committed by him beyond reasonable doubt. There is oral evidence of witness, who stated that the accused petitioner has provided the forged statements. There is documentary evidence in the form of CFSL expert opinion report which confirms the signature of accused petitioner on counter foil of Cheque book. It is further submitted that the accused petitioner has abused his official position in criminal conspiracy with Shri Krishan Kumar with the dishonest intention to hide the misappropriations of funds from the account of SLAO, Saharsa. He has committed the offence of criminal conspiracy to cheat, criminal breach of trust, forgery for purpose of cheating, use of forged documents as genuine under Indian Penal Code and criminal misconduct by abusing his official position under Prevention of Corruption Act.

Considering the rival submissions of the parties, materials available on record and the fact that charge-sheet has been submitted and there is no allegation of tampering with evidence, let the above named petitioner in the event of his arrest/surrender before the court below within a period of six weeks from today, 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 Special Judge CBI-II, Patna in connection with C.B.I/AC-II/New Delhi RC 217 2017 A 0020, giving rise to Special Case No. 8 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C., as also the following conditions:-

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

(ii) If the petitioner is found tampering with the evidence or the witnesses in this case, the prosecution will be at liberty to move for cancellation of bail.

(iii) The petitioner shall surrender his Indian Passport before the trial court, if he is in possession of the same and without the permission of the trial court, he will not leave the State.

(Prabhat Kumar Singh, J)

Navya/-

U		T	