IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63635 of 2022

Arising Out of PS. Case No.-14 Year-2017 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., Police Station- 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 :
For the Petitioner/s : Mr.Ram Pravesh Nath Tiwari, Advocate
For the Opposite Party/s : Mrs.Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

CAV ORDER

4 28-03-2023 Heard learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel for the Union of India.

The petitioner seeks bail in a case registered for the offence under Sections 120B,409,420,467,468 and 471/34 of IPC and Sections 13(2) read with Sections 13(1)(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. has come into existence to the effect of illegal transfer and misuse of government funds from the Government Bank Accounts in Bhagalpur and Saharsa in fraudulent and conspiratorial manner. It is alleged that an enquiry pertaining to the different accounts of District Nazarat, Bhagalpur maintained with Bank of Baroda, RP Road, Ghantaghar, Bhagalpur and Indian Bank, Patel Babu Road, Bhagalpur was conducted and the inspecting team has submitted its report vide letter No. 2372/Ji. Gra. dated 09.08.2017 showing fraudulent deception, financial irregularities and misappropriation of Government funds.

Learned counsel appearing for the petitioner submits that the petitioner was implicated in three more cases with respect to SRIJAN Scam. Further submits that the petitioner has falsely been implicated in the present case. Petitioner is not named in the FIR. The name of the petitioner has been transpired, during investigation. As a matter of fact the petitioner was posted Joint Manager and working as Accountant (Officer) in the Bank of Baroda, Bhagalpur Branch from October 2011 to January, 2013. Allegation against the petitioner is that he in conspiracy with co-accused persons fraudulently got an amount of Rs. 70,2700,773/- (Seventy Crores Twenty Seven Laks Seven Hundred Seventy Three) diverted from the account of the District Magistrate, Bhagalpur to SMVSSL. Further submits that there is no specific allegation against the petitioner as to how the petitioner in conspiracy with others fraudulently got the Government money from the account of the District Magistrate, Bhagalpur to SMVSSL. It is admitted fact that neither the petitioner had issued the cheque nor he had signed the cheque nor he had filed the F.D.R. in favour of BCCBC. The petitioner was not involved in any manner in the functioning of SMVSSL. Further submits that during entire course of investigation, not a single penny has been recovered from the account or from possession of the petitioner. Further submits that the Investigating Agency (Central Bureau of Investigation) has concluded the investigation and submitted the chargesheet against the petitioner and from bare perusal of the chargesheet there is no material even to suggest that the petitioner was remotely involved in the present occurrence and the chargesheet reflects that the petitioner has entered into a conspiracy with other co-accused persons for committing the present occurrence in connivance with the other co-accused persons. Further submits that the co-accused, namely, Ajay Kumar Pandey and Deo Shankar Mishra, having more of less similar allegation, have already been granted bail by different coordinate Benches of this Court vide order dated 07.09.2021 and 10.12.2021 passed in Cr. Misc. No. 6093 of 2021 and Cr. Misc. No. 40045 of 2021, respectively. One more co-accused, namely Sant Kumar Sinha has already been granted bail by this Court vide order dated 16.12.2021 passed in Cr. Misc.

No. 41898 of 2021 and other co-accused, namely, Ram Krishna Jha, has also been granted bail by a co-ordiante Bench of this Court vide order dated 27.08.2021 passed in Cr. Misc. No. 13523 of 2021. Further submits that co-accused, namely, Barun Kumar and Pradyut Kumar Biswas @ P.K. Biswas @ Vishwas have also been granted bail by different Coordinate Bencesh of this Hon'ble Court vide order dated 28.10.2021 and 17.01.2022 passed in Cr. Misc. Nos. 35666 of 2021 and Cr. Misc. No. 17456 of 2021. Further submits that co-accused, namely, Amrendra Kumar Yadav has also been granted bail by this Court vide order dated 19.01.2022 passed in Cr. Misc. No. 32415 of 2021 passed in Cr. Misc. No.32415 of 2021 and the petitioner is in custody since 30.05.2022.

Mrs. Nivedita Nirvikar, learned senior counsel for the C.B.I. has vehemently opposed the prayer for bail of the petitioner on the basis of the material available on the record and the case diary and submits that from bare perusal of para No.16.3 of the chargesheet, it appears that the petitioner, who was the Joint Manager and working as Accountant (Officer) in the Bank of Baroda, Bhagalpur Branch he in conspiracy with co-accused persons fraudulently got an amount of Rs. 70,2700,773/- (Seventy Crores Twenty Seven Laks Seven

Hundred Seventy Three) diverted from the account of the District Magistrate, Bhagalpur to SMVSSL. Further submits that the petitioner is an old retired person, aged about 70 years and is suffering from various serious ailments like prostrate problem, eye sight problems and diabetes.

Considering the aforesaid facts, 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 learned court below where the case is pending in connection with Special Case No. 12 of 2020 arising out of R/C Case No.14(A)/2017 with the following conditions:-

(1) 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.

(2) 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.

(3) 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.

(4) The petitioner shall surrender his Passport, if he possesses, before the court below at the time of furnishing his bail bonds.

(Rajesh Kumar Verma, J)

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