IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71170 of 2022
Arising Out of PS. Case No.-9 Year-2018 Thana- C.B.I CASE District- Patna

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Ashok Kumar Gupta Son Of Late Raghunandan Prasad Gupta Resident Of Mohalla - Gurhatta Chowk (Near Thakurbari), P.O.- Mirjanhat, P.S.- Mojahidpur, District - Bhagalpur

... ... Petitioner/s

Versus

The State of Bihar through the C.B.I. Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Pranav Kumar Jha
For the Opposite Party/s : Mr.Nivedita Nirvikar

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 09-05-2023 Heard learned counsel for the petitioner and learned A.P.P appearing on behalf of the State.

The petitioner is languishing in custody in a case registered for the offences punishable under Sections 120(B), 409, 420, 467, 468, 471 of the Indian Penal Code.

The case arises out of a criminal conspiracy known in the common parlance as *Srijjan Scam* wherein the government funds were misappropriated through banking transactions by siphoning off the funds in the account of *Srijan Mahila Vikas Sahyog Samiti* Limited (hereinafter referred to as the *SMVSSL*).

The prosecution case as per F.I.R relates to illegal transfer and misuse of funds from government bank accounts in Banka and Bhagalpur in fraudulent and conspiratorial manner. The allegation, in brief is that A/c no. CA/99 was opened in the name of District Land Acquisition Officer (DLAO), Banka Branch in the year 2002 in the Banka branch of the Bhagalpur Central Cooperative Bank Limited (BCCBL) and an amount of Rs. 2 crores vide cheque No. 91802 dated 10.06.2009 and Rs. 1.5 crores vide cheque No. 91805 dated 14.08.2009 were fraudulently withdrawn from this account by Smt. Jayshree Thakur, the then District Land Acquisition Officer. The cheque no. 91805 dated 14.08.2019 amounting to Rs. 1.5 crores was issued by Smt. Jayshree Thakur from A/c no. CA/99 in favour of the District Land Acquisition Officer in her own handwriting without mentioning the A/c number in which the proceeds of the cheque is to be transferred. It is alleged against the petitioner that petitioner was in-charge of the Bhagalpur Central Co-operative Bank Limited, Banka Branch during the period 05.06.2006 to 31.01.2015 and he fradulently issued the cheque book having series nos. 91801 to 91820 from Bhagalpur Central Cooperative Bank Limited, Banka Branch and with dishonest intention, he did not obtain the signature of the recipient. The investigation further revealed that Bhagalpur Central Cooperative Bank Chqeue Nos. 91802, 91804 and 96269 were having illegal endorsement of SMVSSL on the back side of cheques and thereafter, he issued the DDs in favour of the concerned bank in pursuance of the OBC Nos. 67,277 and 250 respectively. The petitioner was having complete knowledge that proceeds of above said Bhagalpur Central Cooperative Bank Limited cheques will be credited in the account of SMVSSL. The investigation further revealed that petitioner was well aware of the *modus operandi* of *Srijan* scam that the funds of DLAO, Banka account fraudulently diverted to the SMVSSL accounts and to avoid any dishonoring of the cheques, SMVSSL used to transfer back some of the funds into the account of DLAO, Banka. The petitioner filed the deposit slips pertaining to transfer of funds amounting to Rs. 1 crore, 1.5 crores and 1 crore respectively and processed the same and written to BCCBL, Bhagalpur branch for collection.

It is submitted by learned counsel for the petitioner that petitioner is innocent and he has falsely been implicated in this case. The petitioner has an unblemished service career. The petitioner being Branch Manager of Bhagalpur Central Co-operative Bank Limited had cleared the cheques *bona-fidely* in discharge of his official duty and acted as per instructions of the customer. There is no allegation that petitioner had withdrawn even a single penny from the government account for his personal benefits. The alleged transactions does not even remotely connect the petitioner as a beneficiary of the alleged defalcation of money. There is omnibus allegation against the petitioner that he was a part of the larger conspiracy, however, evidence on record is much less sufficient to make out a *prima facie* case against the petitioner. The charge-sheet has already been submitted. The petitioner is languishing in custody since 26.08.2022. Moreover, other similarly situated co-accused person has been granted bail by a coordinate Bench of this Court vide order dated 29.03.2023 passed in Cr. Misc. No. 32150 of 2022

Learned counsel appearing for the C.B.I has vehemently opposed the prayer for bail of the petitioner and submitted that the case relates to illegal transfer and misuse of funds from government banks in Bhagalpur, Bihar. The investigation reveals that petitioner was one of the conspirators of the aforestated scam.

Considering the facts aforesaid and the period under custody, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousands) 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. 2 of 2019, arising out of R.C Case No. 9/A/18, subject to condition:-

(i) The petitioner shall cooperate into the 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, will not leave the State.

(Sunil Kumar Panwar, J)

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