IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71786 of 2022

Arising Out of PS. Case No.-14 Year-2017 Thana- C.B.I CASE District- Patna

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Ranajit Kumar Pal @ Ranjit Kumar Pal @ Ranjit S/O Late Balai Chandra Pal R/O 75a, Bhuban Mohan Roy Road, Po And Ps- Barisha, Distt- Kolkata-700008, State West Bengal

... ... Petitioner/s

Versus

The Central Bureau of Investigation(CBI) New Delhi

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Sinha, Advocate
Mr. Amit Narayan, Advocate
Mr. Abhigyan Kumar, Advocate

For the Opposite Party/s : Ms. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

CAV ORDER

2 27-04-2023 Heard learned counsel appearing on behalf of the petitioner and learned Senior Counsel appearing on behalf of the Central Bureau of Investigation.

The petitioner apprehends his arrest in connection with CBI Special Case No. 12 of 2020 arising out of RC Case No. 14(A) of 2017, corresponding to Bhagalpur Kotwali (Tilkamanjhi) P.S. Case no. 505 of 2017, registered for the offences punishable under Sections 409, 420, 467, 468, 471, 120(B) and 34 of the Indian Penal Code and Section 13(2), 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred as "PC Act" for brevity).

The case arises out of a criminal conspiracy known in the common parlance as ***Srijan Scam*** wherein the government funds have been misappropriated through banking transaction by siphoning off the funds in the accounts of Srijan Mahila Vikas Sahyog Samiti Ltd. (hereinafter referred to as the SMVSSL).

As per the prosecution case, the allegation against petitioner is that he not only verified the illegal issuance of cheques bearing no. 797361 to 797380 but also verified the transaction done through the aforesaid cheques bearing no. 797361 dated 30.05.2007 for an amount of Rs. 2 crore, cheque no.797364 dated 23.07.2007 for an amount of Rs. 50 lacs, cheque no. 797365 dated 23.07.2007 for an amount of Rs. 50 lacs and cheque no. 797366 dated 06.08.2007 for an amount of Rs. 2 crores. It is further alleged that the petitioner acted unlawfully in conspiracy with other co-accused persons and had been instrumental in diversion of huge amount of the govt fund from the account of DM, Bhagalpur into the account of SMVSSL.

Learned counsel for the petitioner submits that petitioner is quite innocent and has no concern with the alleged offence. He submits that the petitioner has one criminal antecedent vide RC no. 10A/2018. Petitioner was posted as

Assistant Branch Manager in Indian Bank, at Bhagalpur Branch from January 2004 till October 2007 and he bonafidely acted as per banking norms. He submits that in the entire charge sheet there is no reference of demand or acceptance by the petitioner which is a per-requisite to prosecute a person under PC Act. Petitioner verified the issuance of cheque books in discharge of his duties and at best, the act of the petitioner can be termed as negligence of his duty but the same does not impute guilty mind on the part of the petitioner. Further the transactions pertain to cheque nos. 797363 and 797366 amounting to Rs. 50 lacs and Rs. 1 crore, respectively, were verified by the petitioner in discharge of his duty as per banking norms and therefore, allegations against the petitioner does not hold good. There is a delay of one decade in institution of the FIR in this case, which was not explained by the prosecution. Petitioner had nothing to do with office bearers. The charge sheet does not mention any act of meeting of petitioners with Manorma Devi or other office bearers of SMVSSL. There is no instance of joint or corroborate presence of all accused persons for commission of alleged offence. Material on the record is highly insufficient to make out offences under IPC or for illegal gratification under PC Act. He submits that the CBI has miserably failed to show that petitioner even remotely get any pecuniary benefit in this case. The investigating agency submitted charge sheet without arresting the accused persons. Thus, it is submitted that no justifiable purpose would be served by sending the petitioner to jail when he has co-operated in the investigation all throughout and the charge-sheet has also been filed. Petitioner is senior citizen and respected person of the society. He is suffering from chronic diseases like heart ailment, respiratory problem, type-2 diabeties, hypertension etc.

Learned counsel relies upon a judgment in the case of ***Sanjay Chandra vs. CBI*** reported in ***(2012) 1 SCC 40*** in which in para-46 the Hon'ble Apex Court has been pleased to held as under:

> *"We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail conditions pending in trial order on stringent ally the same to apprehension expressed by CBI."*

Hon'ble Apex Court in the case ***Aman Preet Singh***

versus CBI reported in ***2021 SCC Online SC 941*** through its Director has held as under.

> *"The fact that the accused arrested. during the investigation and not being produced in custody before the charge sheet was filed is sufficient to entitle such person to be released on bail, the top court said.*
> *The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, direct his arrest and to suddenly to be incarcerated merely because charge sheet has been filed would be contrary to the governing principles for grant of bail. We could not agree more with this."*

He also relies upon a recent judgment dated 20.03.2023 of the Hon'ble Apex Court passed in the case of ***Mahdoom Bava Vs Central Bureau of Investigation*** (Special Leave to Appeal ***(Crl.) No (s).376/2023)*** and analogous cases and, more particularly, in paragraph-10 thereof, which is being reproduced herein below:

> *"10. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be at practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants*

apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We must keep this in mind while deciding the fate of these appeals."

Learned counsel for the petitioner lastly submits that the present case is based on documentary evidence and there is no any allegation against the petitioner to tamper the evidence or relevant documents and all evidences and documents are in the custody of CBI and CBI has also failed to prove that petitioner has gained any monetary benefit during entire investigation.

Learned Senior Counsel appearing on behalf of the CBI opposes the anticipatory bail application of the petitioner and submits that from perusal of record it is clear that this case is one of the cases which pertains to infamous hundreds of crores rupees Srijan Scam. She submits that the petitioner was posted as Assistant Branch Manager in Indian Bank at Bhagalpur Branch and during his tenure he in conspiracy with other co-accused persons fraudulently diverted huge amount of govt. fund from account of District Magistrate, Bhagalpur in the account of Srjan Mahila Vikas Sahyog Samity Ltd. In order to execute his plan, he in conspiracy with co-accused Ashok Kumar Asthana first illegally issued cheque book series containing cheques bearing no. 797361 to 797380 on the basis of a fraud requisitions slip. Later on, through the aforesaid cheques an amount of Rs. 4.8 crores had been illegally diverted from the account of DM, Bhagalpur to the account of SMVSSL. She further submits that from perusal of charge sheet, it transpires that petitioner not only verified the illegal issuance of cheques bearing no. 797361 to 797380 but also verified the transaction done through the aforesaid cheques bearing no. 797361 dated 30.05.2007 for an amount of Rs. 2 crore, cheque no.797364 dated 23.07.2007 for an amount of Rs. 50 lacs, cheque no. 797365 dated 23.07.2007 for an amount of Rs. 50 lacs and cheque no. 797366 dated 06.08.2007 for an amount of Rs. 2 crores. She submits that it appears that the petitioner acted unlawfully in conspiracy with other co-accused persons and had been instrumental in diversion of huge amount of the govt fund from the account of DM, Bhagalpur into the account of SMVSSL.

Learned Senior Counsel for the CBI relies upon the judgment of ***Dipak Subhashchandra Mehta Versus Central Bureau of Investigation [AIR 2012 SC 949]***, in which Hon'ble Supreme Court has observed in para no.18 that:

"The court granting the bail should exercise its discretion in a judicious manner and not as a matter of course.

Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken. There is a need to indicate in such orders reasons for prima facie concluding why bail was being granted, particularly, where the accused is charged of having committed serious offence. The Court granting bail has to consider, among other circumstances, the factors such as **a)** the nature of accusation and severity of punishment in case of conviction and nature of supporting evidence; **b)** reasonable apprehension of tempering with the witness or apprehension of threat to the complainant and; **c)** prima facie satisfaction of the court in support of the charge. In addition to the same, the Court while considering a petition for grant of bail in a non-bailable offence apart from the seriousness of the offence likelihood of the accused fleeing from justice and tampering with the prosecution witnesses, have to be noted".

Having considered the rival submissions made on behalf of the parties, and the fact that CBI has failed to prove that petitioner has gained any monetary benefit during the entire investigation, and for the reasons as enumerated in the foregoing paragraphs and relying upon the recent judgment of Hon'ble Apex Court in the case of **Mahdoom Bava** (supra), I am inclined to grant privilege of bail to the petitioner.

The petitioner above named is directed to be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case ispending/successor Court in connection with Spl. Case No. 12/2020 RC No. 14A/2017 corresponding to Bhagalpur Kotwali (Tilkamanjhi) P.S. Case No. 505 of 2017, subject to the condition 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/her absence on two consecutive dates without sufficient reason, his/her 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.

(Anjani Kumar Sharan, J)

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