IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73800 of 2022

Arising Out of PS. Case No.-17 Year-2017 Thana- C.B.I CASE District- Patna

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SANJAY KUMAR, Son of Late Paramchandra Sah, Resident of New Colony, Saharsa, Ward no. 9, behind the residence of S.D.O., P.O- Saharsa, P.S- Saharsa, Dist- Saharsa

... ... Petitioner/s

Versus

The State of Bihar through the CBI, Bihar

... ... Opposite Party/s

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

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 24-05-2023 1. Heard learned counsel for the petitioner and learned senior counsel representing the Central Bureau of Investigation *(for brevity 'CBI')*.

2. The petitioner seeks bail in connection with R.C. 17/A/2017, giving rise to Special Case No. 14/2020 arising out of Bhagalpur Kotwali (Tilka Manjhi) PS Case No. 513/2017 registered for the offence punishable under Sections 120B, 409, 420, 467, 468, 471 and 477A of the Indian Penal Code and Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

3. An FIR RC 2172017A0017, CBI, AC-II, New Delhi was registered by CBI on 25.08.2017 by taking over investigation of FIR No. 513/2017 dated 12.08.2017 of

Bhagalpur Kotwali (Tilka Manjhi) U/s 120-B, 409, 420, 467, 468, 471 7 477A of IPC, in compliance to the Notification dated 18.08.2017 of Home Department of Government of Bihar under Sub-Section (1) of Section 5 read with Section 6 of DSPE Act.

4. The brief substance of allegations in the FIR is embezzlement/fraudulent transfer of funds from the account of the Deputy Development Commissioner (DDC)-cum-Chief Executive Officer (CEO), Zila Parishad, Bhagalpur to the account of ‘Srijan Mahila Vikas Sahyog Samiti Limited’ *(for brevity ‘SMVSSL’)*. The instant petitioner was not an accused named in the FIR.

5. Upon completion of investigation, charge-sheet was submitted on 17.02.2018 against 13 accused persons. Supplementary charge sheet No. 9 of 2020 dated 16.10.2020 was filed, nearly four years after institution of the FIR. In the supplementary charge-sheet, the investigation agency found involvement of 11 new accused persons, including the petitioner's role in the alleged crime.

6. As per the charge-sheet, the petitioner's involvement has emerged in one more case arising out of similar allegations, which together constitute, what is known in common parlance as "Srijan Scam". The petitioner was very

close with the prime accused late Manorama Devi, one of the main beneficiaries of the "Srijan Scam". He was the then Branch Manager of Bank of Baroda at Bhagalpur. He is alleged to have hatched a conspiracy in order to avoid dishonoring of cheques issued by DDC cum CEO, Zila Parishad, Bhagalpur and to hide the diversion and misappropriation of Government funds by abusing his official position.

7. Learned counsel for the petitioner submits that the petitioner's implication is based merely on suspicion arising out of his alleged proximity with the prime accused of the scam. He has been implicated in one more case based on such suspicion, as per disclosure made in paragraph 3 of the bail application. There is no allegation of the petitioner forging or fabricating any instrument. He has discharged his duties *bona fide* in the Bank and never misused or abused his official capacity. Since the transactions made was entered by other officers of the Bank and the petitioner, being the Senior Manager of the Bank, verified the entered transactions, so he should not be made responsible for the alleged act. Several co-accused, namely, Subrat Das @ Subrata Das, Ajay Kumar Pandey, Sarita Jha, Atul Raman, Deo Shankar Mishra, Barun Kumar, Mohd. Sarfrajuddin @ Md Sarfrajuddin, Banshi Dhar Jha @ Vanshi Dhar Jha @ Vanshi

Dhar, Nabin Kumar Saha, Rakesh Kumar, Rakesh Kumar @ Rakesh Kumar Yadav have been allowed bail vide Cr. Misc. Nos. 22914 of 2020, 33285 of 2020, 2560 of 2021, 6540 of 2021, 8319 of 2021, 16351 of 2021, 34719 of 2021, 35990 of 2021, 40274 of 2021, 40324 of 2021 and 45464 of 2021 respectively. The petitioner's case is on a better footing then these co- accused persons.

8. The petitioner is in custody since 05.09.2022.

9. Learned Senior counsel for the CBI on the other hand submits that the charge-sheet, details of which this Court has noticed above, clearly suggests petitioner's active participation in the crime and criminal conspiracy. The petitioner has benefited from *SMVSSL,* which organisation was a beneficiary of misappropriated Government's fund. There is sufficient material to support the allegation against the petitioner.

10. In the counter-affidavit, the Investigating Agency has averred that if the petitioner is enlarged on bail, he may influence the witnesses of the case or he may evade the trial proceedings.

11. On hearing of the rival submissions, this Court would take into consideration the nature of accusations and

material collected in the investigation, as noted above.

12. Insofar as the averment in the counter affidavit that petitioner may influence the witnesses, this Court would find that assertion is not supported by any material particulars as to which of the witness, he has tried to influence, and in what manner. There is nothing more than a generalized apprehension expressed in the counter affidavit without any material basis. The same, therefore, cannot be a reason to conclude such propensity of the petitioner and to deny regular bail.

13. The learned senior counsel for the Investigating Agency (CBI) has not denied the assertion regarding petitioner's cooperation in the investigation leading to submission of the charge sheet, the factum of several co-accused having been allowed bail, as noted above, is also not denied or disputed.

14. The Court, therefore, is inclined to accept the submissions advanced by the learned counsel for the petitioner, as noted above, so as to allow him bail. The consideration is for the limited purposes of grant of bail and may not be deemed as an expression of any opinion by this Court on the merits of the matter which is yet to be determined at the trial, or for any other purposes.

15. Petitioner's prayer for bail is allowed.

16. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, C.B.I.-II, Patna, in connection with Special Case No. 14 of 2020 (R. C. 17/A/2017) arising out of Bhagalpur Kotwali (Tilka Manjhi) PS Case No. 513/2017, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii)That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(iii) The petitioner shall not leave the country without permission of the Trial Court.

17. This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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