IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73701 of 2022

Arising Out of PS. Case No.-7 Year-2018 Thana- C.B.I CASE District- Patna

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SUMIT KUMAR SON OF SHRI KAUSHAL KISHORE PANDEY R/O JAI PRAKASH PANDEY LANE, JOGSAR GWALTOLI, P.S.- BHAGALPUR, DISTRICT- BHAGALPUR

... ... Petitioner/s

Versus

1. The State of Bihar
2. UNION OF INIDA THROUGH CBI NEW DELHI

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Anuj Kumar
For the Opposite Party/s : Mr.Ajay Mishra

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

8 24-07-2023 Heard learned counsel for the petitioner and learned senior counsel for the CBI, Ms. Nivedita Nirvikar.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 120B read with Sections 409, 420, 467, 468 and 471 of the Indian Penal Code and Sections 13(2) read with Section 13(1)(c) and (d) of the P.C. Act, 1988.

Learned counsel for the petitioner submits that the informant alleges that while petitioner was posted as Assistant Branch Manager of the Bank in between 21.05.2011 to 21.05.2012 had passed cheque No. 293558 dated 14.07.2011, without tallying the signature of the account holder, drawn on the account of DDC, hence, an amount of Rs. 2 crore was transferred in the account of Srijan, further, the cheque was not issued from the office of the DDC.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that he is innocent and in a mechanical manner, based on an FIR, instituted on 14.06.2018, he came to be implicated, it is next submitted that cheque book series No. 293541 to 293560 for the DDC Account No. 730305570 was issued on 18.09.2010 i.e., prior to his joining the bank, it is next submitted that though it is alleged that the cheque was passed despite signature not tallying with the account holder, but when signature on the cheque was compared with the signature of the account holder available in the bank computer system, it was found that the signature did not differ, rather, tallied with the available signature in the computer system. It is next submitted that during investigation, it has not been investigated that as to who manipulated the signature of the account holder in the computer system of the bank, it is further submitted that the signature of the account holder was uploaded in the computer system by one Pradyut Kumar Biswas (AM) as Maker and Hare Krishna Adak (ABM) as chequer on 12.08.2010 i.e., much prior to his joining the bank. It is next submitted that after introduction of Core Banking Solution System, the bank official just have to compare the signature on the cheque with the signature uploaded in the system. It is further submitted that it is not the case of the prosecution that the money was credited in the account of someone who was related to the petitioner in any manner. Learned counsel next submits that the petitioner, as an employee of the bank, would not indulge in any act which creates evident against him and thus would get implicated easily, learned counsel reiterates that the cheques were passed after tallying the signature on cheque with the signature of the account holder in the system. It is next submitted that the petitioner has cooperated in the investigation and has presented himself before the CBI authority as and when required and never evaded investigation, it is further submitted that the charge sheet has been submitted and no useful purpose would be served by sending the petitioner to jail at this stage, it is also submitted that the petitioner from 2018 till date is suffering.

Learned senior counsel appearing for the CBI vehemently opposes the anticipatory bail application of the petitioner.

On query of the Court that, as to why, no counter affidavit, till date, has been filed when earlier time was granted on 25.05.2023 and thereafter, again two weeks time was granted on 19.06.2023 on which the learned senior counsel submits that despite her best endeavors, she could not receive instructions for filing counter affidavit.

Learned senior counsel for the CBI submits that the petitioner was the checker of the cheque which was passed which led to siphoning of Rs. 2 crore from the account of the DDC in the account of Srijan.

Learned counsel for the petitioner rebuts the submission of the learned senior counsel and submits that he has made his submission in detail that the petitioner is not disputing that he had checked the cheque and cleared it for being in cash but then the signature of the account holder on the cheque was tallied with the signature in the system of the bank and the CBI has not investigated that as to who changed the signature of the account holder in the computer system of the bank which was done prior to his joining.

Be that as it may, that since the charge sheet has been submitted and the petitioner has cooperated in the investigation and the CBI never felt the need of arresting the petitioner, as such, no justifiable purposes would be served now by sending the petitioner to jail.

Learned counsel for the petitioner, at this stage, submits that the petitioner will cooperate in the trial and will not delay the same.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with R.C. Case No. 7 A of 2018 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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