

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29 of 2023

Arising Out of PS. Case No.-5 Year-2018 Thana- C.B.I CASE District- Patna

MR. SUMIT KUMAR S/o 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. THE UNION OF INDIA THROUGH CBI

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul
		Mr. Anuj Kumar
For the Opposite Party/s	:	Mr. Choubey Jawahar
		Mrs.Nivedita Nirvikar,Sr.Adv.
		Mr. Arya Achint

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 04-07-2023 Heard learned counsel for the petitioner, learned

A.P.P. and learned counsel appearing on behalf of opposite party

no. 2 / C.B.I.

The petitioner apprehends his arrest in R.C. Case No.
5A of 2018, corresponding to Special Case No. 01 of 2021,
instituted for the offence under Section 120(B) r/w Sections
409, 420, 467, 468, 469 & 471 of the Indian Penal Code and
Section 13(2) r/w Section 13(1)(c)(d) of the Prevention of
Corruption Act.

The present case also relates to ‘Srijan Scam’.

It is alleged that this petitioner, in association with



other co-accused persons, transferred and siphoned off the government money in fraudulent and conspiratorial manner. It is further alleged that this petitioner, who at the relevant time was posted as Assistant Manager, Indian Bank, Bhagalpur, had dishonestly passed a cheque, bearing no. 024885 dated 10.06.2011, of Rs. 5,00,00,000/- (Rupees five crore) of Bank of Baroda, as maker and checker. The said amount was credited in the account of SMVSSL (Srijan Mahila Vikas Sahyog Samiti), despite the fact that the above cheque was issued in favour of DLAO, Banka (District Land Acquisition Officer).

It is submitted on behalf of petitioner that initially, petitioner was not named, later on in the supplementary chargesheet, petitioner was made accused. The petitioner was working as Assistant Branch Manager in Indian Bank at Bhagalpur branch during the relevant time and acted bonafidely as per banking norms. Though, it is alleged that petitioner was maker and checker of the cheque in question, but as per rule, a single person cannot be maker and checker of the whole transaction. The said cheque was never physically or in any manner brought before the petitioner at any point of time and as such, there was no occasion for the petitioner to deal with the alleged transaction. Cheque in question was bearer cheque with



instruction to credit in the account of SMVSSL, as such, petitioner was under obligation to honour the cheque. Moreover, after investigation, chargesheet has already been submitted. During the investigation, there is no allegation of tampering with the evidence against this petitioner and he has fully cooperated with the investigating agency.

Learned counsel for the petitioner next submits that earlier, vide order dated 18.04.2023 passed by a coordinate Bench, concerned opposite party was already directed for not taking any coercive step against petitioner in the present case, and as such, there was no occasion for the learned court below to issue non-bailable warrant of arrest against this petitioner.

However, learned counsel appearing on behalf of C.B.I. vehemently opposes the prayer for anticipatory bail and submits that the officials of SMVSSL entered into criminal conspiracy with official of Bank of Baroda and Indian Bank, Bhagalpur for diversion of government funds into the account of SMVSSL by using different cheques issued by Bank of Baroda, Bhagalpur / Indian bank in favour of District Land Acquisition Officer, Banka. The bank officials in connivance with SMVSSL fraudulently diverted/transferred the government funds from different accounts of DLAO, Banka to the accounts of



SMVSSL.

He further submits that C.B.I. has filed chargesheet against Smt. Jayshree Thakur and Smt. Sarita Jha before the learned Trial Court on 12.06.2018 and after completion of investigation, C.B.I. has filed a supplementary chargesheet against 12 accused persons including this petitioner under Sections 120-B r/w Section 409, 467, 468 and 471 of the I.P.C. and Section 13(2) r/w 13(1)(c)(d) of P.C.Act.

He next submits that after taking cognizance, the learned Trial Court issued summon on 14.12.2021 against this petitioner for his appearance in person before the Trial Court to face trial, but the petitioner neither appeared nor intimated about his non-appearance. Thereafter, learned Trial Court issued bailable warrant of arrest against petitioner on 12.08.2022 to appear before the Trial Court. In compliance of the bailable warrant, on 18.08.2022, a CBI team visited the residence of petitioner where petitioner was not found and though, his wife was served with bailable warrant. Due to willful non-compliance of learned Trial Court orders, finally, court of Special Judge, C.B.I.-II, Patna has issued non-bailable warrant on 23.08.2022 against the petitioner in the instant case, but still he is absconding and evading his presence before the court.



Considering the fact that chargesheet has already been submitted and during the investigation, there is no allegation of tampering with the evidence against petitioner coupled with the fact that custodial interrogation of petitioner is not required in this case, in the event of arrest/surrender within a period of six weeks from today, let the above named petitioner be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I.-II, Patna in connection with R.C. Case No. 5A of 2018, corresponding to Special Case No. 01 of 2021, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure with further following conditions:

(1) Petitioner shall cooperate 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 absence on two consecutive dates without sufficient reason, his 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.

(Prabhat Kumar Singh, J)

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