IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16712 of 2024

Arising Out of PS. Case No.-18 Year-2018 Thana- C.B.I CASE District- Patna

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Arjun Das Son of Late Banarsi Das Resident of 542 Nakshtra no 524 AA II B behind water tank 14, New town kolkata, north 24 Parganas west Bengal 700156

... ... Petitioner/s

Versus

The Superintendent of Police/C.B.I patna

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Prabhu Narayan Sharma, Advocate
For the Opposite Party/s : Mr. Avinash Kumar Singh, Spl. P.P. CBI

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-03-2024 Heard Mr. Prabhu Narayan Sharma, learned counsel appearing on behalf of the petitioner and Mr. Avinash Kumar Singh, learned Special P.P. for the CBI.

2. The petitioner apprehends his arrest in connection with Special Case No. 7 of 2023 arising out of RC No. 18(S)/2018, corresponding to Kotwali (Tilka Manjhi) P.S. Case No. 676 of 2017, registered for the offences punishable under Sections 34, 120-B, 406, 409, 420, 467, 468 and 471 of the Indian Penal Code and Section 13(2) read with 13(1)(C)&(d) of the P.C. Act, 1988.

3. That the present case is one of the case of Srijan scam related to misappropriation/misuse of public money from the Government Bank Account, Bhagalpur, Bihar to the account

of Srijan Mahila Vikas Sahyog Samiti Limited (hereinafter referred to as the 'SMVSSL'). The name of the petitioner has sprung up during the course of investigation leading to filing of supplementary charge-sheet with an allegation that the petitioner was the maker of Cheque No. 23941 dated 01.10.2008 for an amount of Rs.40,34,000/- processed at the Bank of Baroda, Main Branch, Bhagalpur credited in the account of SMVSSL, through deposit slip no. 224763 dated 03.10.2008 by late Manorma Devi.

4. It is submitted on behalf of the petitioner that the case was instituted in the year 2017 and after completion of the investigation, the CBI submitted charge-sheet no. 28/2019 dated 31.12.2019 keeping pending further investigation on some points. However, after a considerable delay, subsequently a supplementary charge sheet no. 13/2023 dated 28.06.2023, awaiting sanction for prosecution, was submitted and the petitioner and others have been made accused and sent up for trial. It is thus submitted that the period of posting of the petitioner in the alleged branch was 30.07.2007 to 09.10.2009, where he was posted as Clerk and later on promoted to the Junior Officer Scale-I, however, the whole span of his service career remained unblemished and for the first time the name of

the petitioner cropped up by the investigating agency alleging him to be a maker of cheque no. 23941 dated 01.10.2008 of Bank of Baroda for an amount of Rs. 40,34,000/-. Barring the aforesaid facts, no material has come that the petitioner had any way in collusion with the other accused persons has filled up the cheque rather it was an unintentional mistake and for that he was departmentally proceeded in which he was found negligent and warranted no criminal prosecution and punished with the reduction by two stages in the time scale of pay for the period of one year. Even during the course of investigation no material has come that the petitioner had gained any pecuniary/monetary benefit.

5. The petitioner is a retired government servant and the entire case is based on the documentary evidence. There is no allegation against the petitioner of tampering the evidence or relevant documents and in fact all the evidences and documents are in the custody of CBI and the investigation has already come to an end. Various orders of coordinate Bench have been produced before this Court that the other co-accused persons, having identical or aggravated allegation, have been allowed the privilege of anticipatory bail, the copies of which have been produced before this Court. Drawing the attention of this Court

to the order of a learned co-ordinate Bench in Cr. Misc. No. 1544 of 2023, it is vigorously contended that co-accused persons against whom the serious allegation has been levelled and he was posted as the District Magistrate, Bhagalpur, alleged to have signed two cheques which were duly approved by the then Nazarat, Deputy Collector, has also been allowed the privilege of anticipatory bail.

6. On the other hand, learned counsel for the CBI vehemently opposed the application and submitted that the complicity of the petitioner has been found during the course of investigation as the petitioner was the maker of the cheque in question to the tune of Rs.40,34,000/- which has been credited in the account of the SMVSSL. Besides the aforesaid fact, the petitioner is also accused in two other cases of identical nature duly mentioned in paragraph no. 3.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that now the investigation has already been completed and no custodial interrogation is required, coupled with the fact that the petitioner is a retired employee and the co-accused persons having similar or aggravated allegation have been accorded the privilege of anticipatory bail and the case of the petitioner is based on parity,

let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge CBI-II, Patna in connection with CBI/ACB/PATNA/R.C. 0232018S0018 (18(S)2018), giving rise to Special Case No. 7 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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