IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29215 of 2022

Arising Out of PS. Case No.-11 Year-2019 Thana- C.B.I CASE District- Patna

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SUDHIR KUMAR, Son of Sri Sadhu Saran Prasad Resident of Mohalla - Adivashi Colony Bscomaun, Guljarbagh, P.S. - Alamganj, District - Patna.

... ... Petitioner/s

Versus

The Central Bureau of Investigation through Superintendent of Police C.B.I./A.C.B. Patna. Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha- Sr. Advocate
		Mr. Alexander Ashok- Advocate
		Mr. Akanksha Malviya- Advocate
		Mr. Abhinay Raj- Advocate
For the C.B.I.	:	Mr. Avanish Kumar Singh-Spl.P.P., C.B.I.
		Mr. Ambar Narayan- Advocate
		Mrs. Barkha- Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

9 20-03-2024

1. Heard learned senior counsel for the petitioner and learned Special P.P. for the C.B.I.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 120B, 409, 420, 467, 468, 471 and 477A of the Indian Penal Code and Section 13(2) r/w 13(1) (a) of the Prevention Of Corruption Act.

3. Learned senior counsel for the petitioner submits that the petitioner is a person with clean antecedent and in the F.I.R., allegation is of fraudulent withdrawal of money from SB/MIS/TD account of Patna GPO by Munna Kumar in

connivance with Sujay and Rajesh Kumar Sharma. It is next alleged that an enquiry was conducted on complaint of one Rekha received through the office of Circle Officer Patna, wherein it was alleged that some officials of the department has fraudulently withdrawn customers' money from the aforesaid account by opening saving bank account and misappropriated the Government money. Further, in the enquiry, it transpired that amounts withdrawn from 39 accounts out of 40 accounts appears to be suspected, as detailed in the FIR. Further, as per enquiry an amount of Rs. 1,60,25,100/- has been fraudulently withdrawn by Munna Kumar using his user ID in connivance with Aditya, Sujay and Rajesh, who initiated and verified the transaction by using their user ID. Further, an amount of Rs. 40.22 lakhs was found deposited in SB account of Rajesh and his family members. It is further alleged that no photograph of the account holder was found in the system. Thus, it is alleged that fraudulent withdrawals were made from MIS/TD account which were opened prior to 2000 and were lying unclaimed in the system. The said accounts were closed in between 03.05.2019 to 08.07.2019 by fraudulently opening SB Accounts in the name of other holders and subsequently made joint B Accounts with TD/MIS Account, hence account opening forms were also not available along with the photographs of the account holders. It is further alleged that all accounts were opened by Aditya, who was not authorized to open the account.

4. The learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is next submitted that petitioner had a blemishless service record and no departmental proceeding was ever initiated against him. It is further submitted that from perusal of the allegation, it would manifest that the informant alleges that the money was misappropriated by Munna Kumar using his User I.D. in connivance with other accused persons. It is further submitted that as far as this petitioner is concerned, from perusal of the allegations as alleged in the F.I.R., it would manifest that not even an aspersion has been cast against him. It is also submitted that in the allegation part of the F.I.R., the petitioner is not named, but in the accused column, he is named at serial no.5, but then, there is no specific allegation alleged against him. It is also submitted that the C.B.I. has already filed charge-sheet and the petitioner has

cooperated during the course of investigation, as such, nothing more remains to be elicited from the petitioner. It is also submitted that since the C.B.I. never felt the need of arresting the petitioner during the course of investigation, no useful purpose would be served by sending the petitioner to jail at this stage, but then, it is submitted based on instruction of the petitioner that petitioner will not delay the trial.

5. The learned Special P. P. for the C.B.I. opposes the anticipatory bail application, but then, is not in a position to rebut the submission of the learned senior counsel that the C.B.I. during the course of investigation never felt the need of arresting the petitioner and the petitioner cooperated during the course of investigation and charge-sheet has been submitted.

6. 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 Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.25,000/- (Rupees Twenty Five 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 C.B.I./A.C.B. Patna F.I.R. No.0232019A0011 dated 09.10.2019 giving rise to RC Case No.11(A) of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

8. However, it is made clear that in the event, if any application is filed by the Investigating Officer before the learned trial Court bringing to its notice that petitioner, despite giving assurance to this Court, is not cooperating in the investigation or is not presenting himself as and when required, the learned trial Court shall be at liberty to cancel the bail bonds of the petitioner after recording reasons.

(Satyavrat Verma, J)

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