IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30474 of 2022

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

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Rajesh Kumar Sharma, aged about 57 years (Male), S/o Late Dhanesh Kumar Sharma, Resident of Flat No.-B/605, Agrani Ashoka, Near Chamari Chak, Devi Mandir, Behind Hi-Tech Hospital, Saguna More, Danapur, P.S.-Danapur, District-Patna, Pin Code-801503, Bihar

... ... Petitioner

Versus

Union Of India through C.B.I. Patna, Bihar

... ... Opposite Party

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Appearance :

For the Petitioner : Mr. S.D. Sanjay, Sr. Advocate and Mr. Sudhir Kumar Tiwary, Advocate

For the Opposite Party : Mr. Bipin Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

11 26-02-2024 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned senior counsel for the petitioner and learned counsel for the C.B.I.

3. The petitioner is apprehending his arrest in connection with Special Case No. 10 of 2019, R.C. No. 11/A/2019 registered for the offences punishable under Sections 120B, 409, 420, 467, 471, 477A of the I.P.C. and Sections 13(2), 13(1)(a) of the P.C. Act, 1988.

4. As per the prosecution case, on the basis of the

written complaint application of Raj Dev Prasad, Chief Post Master, G.P.O., Patna, regarding fraudulent SB/MIS/TD withdrawal at Patna GPO in convenience of Munna Kumar, SB Counter P.A. and two APM SBHO, namely, Sujay Tiwari and Rajesh Kumar Sharma. It has been alleged in the F.I.R. that a complaint letter (No. Nil) of Rekha Kumari, Ashok Nagar, Patna, regarding fraudulent payment and misappropriation of government money in Patna G.P.O., was received at Patna G.P.O. on 26.07.2019 through the Circle Officer, Patna, Letter No. Inv/Misc/39/2019 dated 25.07.2019 for inquiry into the matter. In that very application, the complainant Rekha Kumari has alleged that some officials of the department have fraudulently withdrawn customer amount from under mentioned account by opening SB Account fraudulently and misappropriated the government money. Some details of accounts of MIS/TD/SB was given. On the complaint petition, the matter was taken up for inquiry by forming a committee of some member. In preliminary report vide Letter No. PG/Inquiry/Suspect/GPO/18-19 dated 03.08.2019 was filed with this observation that amounts withdrawn from 39 accounts out of 40 appears to be suspected whereas one account bearing No. 1304144342 does not exit. The details of suspected accounts involved are given in F.I.R. On the preliminary inquiry conducted on 03.08.2019, the following irregularities were observed:- 1. Several MIS and TD accounts (list enclosed) with date of opening before the year 2000 were lying unclaimed in the system (Finacle) at Patna GPO, which were closed during the period from 03.05.2019 to 08.07.2019 through SB account opened fraudulently the name of other holders and subsequently made Joint 'B' accounts with account holders of TD/MIS accounts. As per inquiry made so far a sum of Rs. 1,60,25,100/- has been fraudulently withdrawn by Shri Munna Kumar, SB counter PA, Patna GPO using his user ID with connivance of Shri Aditya Kumar Singh, Shri Sujay Tiwary and Shri Rajesh Kumar Sharma (petitioner), APM SBHO who initiated/verified the transactions by using their user ID & password. It has been further alleged that a huge amount of Rs. 40.22 lacs has been found deposited in 5 SB/TD account of Rajesh Kumar Sharma (petitioner) and his family members. It has been alleged regarding irregularities that photographs of the account holders in all the accounts are not available in finacle. Signature of the account holders in all the accounts except account nos. 1300842079 and 1300842062 are available as SSW (Specimen Signature Wanting), which indicates that original specimen signatures were not available at the time of migration. Specimen signature for the account nos. 1300842079 and 1300842062 are not available in finacle. Duplicate passbook were printed in finacle for four TD accounts out of five. No information is available for account no. 1300842062 in finacle. Account opening forms are not available. All the accounts have been opened by Aditya Kumar who was not authorized for opening of SB account.

5. Learned senior counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the name of the petitioner has been dragged in the present case only after refusal by the petitioner to deposit the proportion of defalcated amount whereas for the same offence of withdrawal of S.B. account and verification of C.I.F'S, other officials have not been named in the present case. It is further submitted that the petitioner has completed his service for more than 35 years and during his service tenure, he has unblemished record and never subjected to any departmental proceeding in his 35 years of service. It is further submitted that the petitioner is aged about 57 years old and he is suffering from various ailments and undergone surgery of heart in the year 2013 and dependent on 8-10 medicines

every day prescribed by G.B. Pant Hospital, New Delhi and C. G.H.S., Patna. It is further submitted that the fraud of Rs. 1.62 crore in Patna G.P.O., was detected on 03.08.2019 but the case was registered on 09.10.2019. A 3rd supplementary affidavit has been filed on behalf of the petitioner and in paragraph no. 4 of the said supplementary affidavit, it has been submitted that the petitioner has already deposited a sum of Rs. 5,04,600/- being the amount alleged in the report of the Inquiry Officer vide Letter No. IO/R.K.S./Disc/2019-2020 dated 24.02.2022 through Demand Draft bearing No. 43247106 dated 04.10.2023 in favour of the Chief Post Master, Patna G.P.O., and the office of the Chief Post Master, G.P.O., Patna issued a receipt of D.D. No. 43247106 dated 05.10.2023 annexed as Annexures-P-1 & P-2 to the 3rd supplementary affidavit. It is further submitted that the other co-accused, Munna Kumar has already been granted anticipatory bail by another Co-ordinate Bench of this Court vide Cr. Misc. No. 29220 of 2022 under order dated 11.07.2023, annexed as Annexure-P3 to the 3rd supplementary affidavit filed on behalf of the petitioner. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned counsel for the C.B.I. has opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, C.B.I.-II, Patna, in connection with Special Case No. 10 of 2019, R.C. No. 11/A/2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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