IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48801 of 2024

Arising Out of PS. Case No.-13 Year-2017 Thana- C.B.I CASE District- Patna

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Rajni Priya W/o- Late Amit Kumar R/o- Awadhesh Mansion Pranwati Lane Tilka Manjh Ps- Tilka Manjhi Dist- Bhagalpur

... ... Petitioner/s

Versus

The State of Bihar Through Central Bureau of Investigation BIHAR,INDIA

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar, Advocate
For the CBI	:	Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

4 25-10-2024 Heard Mr. Ajit Kumar, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel appearing on behalf of Central Bureau of Investigation.

2. Petitioner seeks bail who is in custody since 11.08.2023 in connection with R.C. Case No. 13(A) of 2017 corresponding to Special Case No. 02 of 2021, F.I.R. dated 25.08.2017 for the offences punishable under Sections 120B read with Sections 409, 420, 467, 468, 471/34 of the Indian Penal Code.

3. According to prosecution case, during the period 2014-15, the proceeds of cheques worth Rs. 2,70,03,32,693/- issued by DLAO, Bhagalpur for crediting the same in the Account No.- 10010100014403 maintained in the name of DLAO, Bhagalpur was either not credited in the said account or was fraudulently diverted in the account of SMVSSL. It is also

said that during 2007-2017, crores of rupees has been siphoned off from different bank accounts.

4. Learned counsel for the petitioner submits that petitioner is innocent and she has falsely been implicated in the present case. The F.I.R was originally registered on the basis of an information given by the Government Official, Bhagalpur in terms of three member committee report as contained in Memo No. 2372 dated 09.08.2014, huge embezzlement of government funds kept in Bank of Baroda having Account Nos.- 10010100012588 and 10010100003622 and Indian Bank having Account No. 548672141 amounting to crores and the presnet F.I.R has been instituted against the Bank Officials and Office Bearers of Srijan Mahila Vikas Sahyog Samiti Limited (hereinafter called as SMVSSL). The petitioner has been made accused in the present case in the capacity of holding the post of Secretary in the said co-operative society which was brough into being in the year 1996. The only allegation against the petitioner is that she returned some amount vide four cheques in the Account No.- 7651(Old)/548672141 of District Magistrate, Bhagalpur between 18.02.2017 to 29.03.2017 as mentioned in Paragraph 16.6(B) of the chargesheet.

5. The allegation of Rs. 84,30,00,000/- (Rs. Eighty

four crores and thirty lakhs) being credited in the account of SMVSSL on different dates and out of the said amount, returning total amount of Rs. 71,42,34,000/- (Rs. Seventy one crores forty two lakhs and thirty four thousand) cannot be said that the petitioner is involved in the present crime in question and the prosecution has not been able to show as to how the petitioner could have control over the accounts of two government offices which was under the direct control of district administration under the State Government.

6. Learned counsel for the petitioner further submits that Late Manorma Devi who was Secretary of SMVSSL, died on 13.02.2017 and the petitioner took over the charge as the Secretary of SMVSSL through special proceeding convened by District Officials, immediately after the death of Manorma Devi. The allegation of frequent transfer of funds from the account of SMVSSL to the account of District Magistrate through cheques, were manipulated at the ends of the District Official/Bank Officials, as per their requirements and this petitioner had no role in such frequent transfer because of the fact that over such cheques only her signature were obtained and entries of such cheques were never allowed to be filled up and therefore, suitability of presenting those cheques where under the controls

and sweet will of the officers who had procured and presented the same in the respective banks. This petitioner served as Secretary for around 5 months only and therefore, prosecution has not been able to show any act of misrepresentation or cheating being done or forged document being prepared by this petitioner for the purpose of misappropriating the government funds whereas the prosecution has been able to chargesheet several government officials. It appears that the government officials at whose instance fraudulent transfer were being done for their own benefits and the account of SMVSSL was personally being utilized for those ill motive taking into confidence the office bearers of concerned bank and it is not the case of the prosecution that at any point of time any effort whatsoever was ever made by the petitioner to conspire with any official and take them into confidence for being benefited in any manner. No transfer voucher for ensuring fund transfer as per allegation was ever made by this petitioner either in the capacity of Director or in the capacity of Secretary. The entire allegation which was levelled in the chargesheet is fabricated and is made in order to protect the government officials. He further submits that in the present case, the chargesheet has been submitted by the Central Bureau of Investigation and the petitioner is in custody since 11.08.2023 and the petitioner is not required for further interrogation in the present matter and the present case is based on the documentary evidence and when the chargesheet has been submitted, there is no scope with petitioner to tamper the evidence or manipulate the evidence.

7. Learned counsel for the petitioner further relied upon the judgment of the Hon'ble Apex Court in the case of **Teesta Atul Setalvad Vs State of Gujarat** reported in **2023 SCC OnLine SC 860,** whose relevant paragraphs are quoted hereinbelow:-

> ***"32.*** *We find that the considerations which were available when the order was passed by this Court on 02nd September 2022 are still available even at this stage.*
>
> ***33.*** *It will be apposite to reproduce certain observations from the said order:—*
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> *"We need not go into the rival contentions advanced by the learned counsel for the parties touching upon the merits of the matter. For the present purposes, in our considered view, following aspects of the matter, which emerge from the record, are of some significance.*
>
> *a. The appellant - a lady has been in custody since 25.06.2022.*
>
> *b. The offences alleged against her relate to the year 2002 and going by the assertions in the FIR pertain to documents which were sought to be presented and/or relied upon till the year 2012.*
>
> *c. Investigating machinery has had the advantage of custodial interrogation for a period of seven days whereafter judicial custody was ordered by the concerned Court*

> *The essential ingredients of the investigation including the custodial interrogation having been completed, the relief of interim bail till the matter was considered by the High Court was certainly made out."*
>
> ***34.*** *The consideration which weighed with the Court while passing the aforesaid order that the appellant is a lady has not changed. The fact that the offence alleged against her relates to the year 2002 and that the FIR pertains to documents which are sought to be presented or relied upon till the year 2012 has also not changed. The fact that the appellant was available for custodial interrogation for a period of seven days and thereafter she was in continuous judicial custody has also not changed.*
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> ***35.*** *Another factor that needs to be taken into consideration is that after she was released on interim bail by this Court, she has admittedly not been called for investigation even on a single occasion.*
>
> ***36.*** *Taking into consideration that most of the evidence in the present case are documentary evidence, which are already in possession of the Investigating Agency and, further, that the charge-sheet has been filed, we find that she is entitled for bail."*

8. Learned counsel for the petitioner submits that similarly situated, co-accused, namely, Arun Kumar Singh has been granted bail by a Co-ordinate Bench of this Court vide order dated 02.11.2020 passed in Cr. Misc. No. 22141 of 2020, co-accused, namely, Rakesh Kumar Jha has also been granted bail by a Co-ordinate Bench of this Court vide order dated 22.12.2020 passed in Cr. Misc. No. 33755 of 2020, co-accused, namely, Bipin Kumar @ Bipin Kumar Sharma has also been granted bail by this Court vide order dated 03.08.2022 passed in

Cr. Misc. No. 14160 of 2022, co-accused, namely, Subh Lakshmi Prasad @ Shubhlaxmi Prasad has also been granted bail by this Court vide order dated 27.09.2022 passed in Cr. Misc. No. 32267 of 2022 and co-accused, namely, Naluparayil Varghese Raju @ N.V. Raju has also been granted bail by this Court vide order dated 27.09.2022 passed in Cr. Misc. No. 37318 of 2022.

9. Mrs. Nivedita Nirvikar, learned senior counsel for the Central Bureau of Investigation has vehemently opposed the prayer of the petitioner and submits that the petitioner is the Secretary of the SMVSSL and she has issued the cheques after the death of her mother-in-law, Late Manorma Devi. Petitioner was fully aware of the illegal diversion of government funds and she has played an active role and joined the said conspiracy. She further submits that the petitioner along with the bank officials used to transfer the money back to the District Magistrate, Bhagalpur, so that the cheques issued by the DLAO, Bhagalpur would not be dishonored due to insufficient balance in the account of DLAO, Bhagalpur. The petitioner had full knowledge of misappropriation of government fund and she had played an active role in concealing the conspiracy of diversion of government funds. She was the authorized signatory of every

account of SMVSSL. Her signature was mandatory for withdrawal/transfer of money from any account of SMVSSL. She further submits that from perusal of the paragraph 16.6 (B) of the chargesheet, the petitioner is in the capacity of holding the post of Secretary in the SMVSSL and she has returned the amount in the account of District Magistrate, Bhagalpur between 18.02.2017 to 12.09.2017. The petitioner along with the bank officials used to transfer the money back to the District Magistrate, Bhagalpur, so that the cheques issued by the DLAO, Bhagalpur would not be dishonored due to insufficient balance in the account of DLAO, Bhagalpur. Apart from that the petitioner carries 12 criminal antecedents other than the present one where all are of similar nature pertaining to Srijan Scam.

10. Considering the aforesaid facts and circumstances that the petitioner is lady and she is in custody since 11.08.2023 and most of the evidence in the present case are documentary evidence, which are already in the possession of the Investigating Agency and, further, that the chargesheet has been filed, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, CBI-II at Patna in connection with

R.C. Case No. 13(A) of 2017 corresponding to Special Case No. 02 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate 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 her absence on two consecutive dates without sufficient reason, her bail bond shall be cancelled by the Court below.

ii. 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.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed her criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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