IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46174 of 2022

Arising Out of PS. Case No.-6 Year-2018 Thana- C.B.I CASE District- Patna

==

Bipin Kumar @ Vipin Kumar Sharma Son Of Sri Kartik Kumar Resident Of Village - Hanuman Path Tilkamanjhi, Near State Bank Of India, P.S.- Tilkamanjhi, Distt.- Bhagalpur.

... ... Petitioner/s

Versus

The Central Bureau of Investigation (C.B.I.), New Delhi. Govt. of India.

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s :	Mr.Uday Pratap Singh
For the Opposite Party/s :	Ms.Nivedita Nirvikar, Sr. Adv
	Ms. Surabhi Nirmal

==

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR

ORAL ORDER

8 23-02-2024 Heard learned counsel for the petitioner and learned counsel on behalf of the CBI.

2. The petitioner has prayed for grant of bail in connection with RC 6/A/2018 giving rise to Spl. Case No. 11/2020, arising out of Sabaur (Bhagalpur) P.S. Case No. 241 of 2017 registered under section 120B read with Sections 420, 465, 468, 471 and 477A of the Indian Penal Code.

3. Prosecution case in short, is that, on the basis of written report of Sunil Kumar, one late Manorma Devi, the then Secretary of Srijan Mahila Vikas Sahyog Samiti Ltd.(hereinafter called as SMVSSL) made a criminal conspiracy with co-accused persons including this petitioner to embezzle and misappropriate funds of SMVSSL. The petitioner was very

close to late Manorma Devi. He introduced his wife Rubby Kumari to SMVSSL. Petitioner being a property dealer signed number of bookings of flats at Gardenia India Ltd in the name of co-accused and subsequently huge amount had been paid by SMVSSL/Manorma Devi to Gardenia India Ltd towards payments of flats. It is further alleged that petitioner and his wife also received huge amount from SMVSSL. SMVSSL also made payments to Gardenia India Ltd for the shop in the name of petitioner and the flat booked in the name of his wife.

4. Learned counsel for the petitioner submits that the petitioner is innocent and have committed no offence. He has falsely been implicated in this case. The petitioner is not named in FIR rather his name came into light in this case during the course of investigation. He has been dragged in this case only because he is the husband of the co-accused, Rubby Kumari who was Executive Member of Srijan(SMVSSL) and she has already been granted bail by another co-ordinate Bench of this Court vide order dated 20.07.2022 in Cr. Misc. No. 4494 of 2022.

5. Learned counsel for the petitioner submitted by way of first supplementary affidavit that during the course of examination before the Assistant Director Enforcement

Directorate, the present petitioner has specifically denied that he has having any shop in the Gardenia India Ltd stating that he is not having any shop in Gardenia Ltd either in the name of his wife or his own name and hence the allegation of having shop has no substance at all and in support of this a true photo copy of the statement of the petitioner given before the authorities of Enforcement Directorate is annexed herewith marked as Annexure-7 of this petition. Though, it has been alleged that an amount of Rs. 1,43,460/- has been transferred in the account of this petitioner from the account of Srijan but till date the entire amount is lying in the account of petitioner and he has himself informed about the same to the Investigating Agency voluntarily during the course of investigation of the present case. The F.I.R has been lodged on 23.08.2017 and the said amount was transferred about 2½ years back but the petitioner has not withdrawn even a single penny that shows that the same was not transferred in the connivance of the petitioner rather petitioner was unaware of such transfer. During investigation, 4.5 lakhs was credited in the account of petitioner from the account of SMVSSL and in this regard, it is submitted that petitioner was also associated as Business Development Manager with the Srijan and the above said amount was paid to the petitioner in two installments as an incentive of the work performed by him for Srijan and he has very fairly mentioned the details in the ITR filed by him in different years. Petitioner is involved in various trades and working as property agent in the area of Bhagalpur and the investigating agency(CBI) has found the same facts during the course of investigation. It is also submitted from para-12 that the statement made in paragraph no. 16.28 of the supplementary charge sheet, it is stated that so far as transfer of Rs. 50 lakhs and Rs. 10.75 lakhs respectively in the account of petitioner from the account of SMVSSL are concerned, it is stated that the same has been transferred by the then Secretary of the Srijan for construction of building/office of Srijan in Bhagalpur over a plot having joint ownership of Amit Kumar and Vandana Karn and the petitioner has completed the entire construction work of house in question and the same has been valued by the registered valuer of Department of Income Tax, Government of India in support of this, a true photocopy of valuer's report and ITR have been annexed as Annexure-10 and 10/1 of this petition. From the fact mentioned, it is hereby clear that petitioner was not at all involved in any kind of misappropriation of public fund rather he has received the amount for the services performed by him for SMVSSL.

Charge sheet has been submitted as such, there is no chance of tampering with evidence. It is submitted that the petitioner is behind bar since 27.09.2021 and remanded in this case on 26.05.2022.

6. The application for bail is opposed by learned counsel on behalf of the CBI and submitted that the present case is a big scam dealing with the public money. It is submitted that large public money was misappropriated by the petitioner in collusion with other co-accused persons. During investigation, it has come to be revealed that petitioner received more than 55 lacs in his account at least on three occasions. It is further submitted by way of counter affidavit that petitioner is the main link for booking and purchasing of aforesaid flats in the names of accused persons and their family members for which Smt. Manorma Devi of SMVSSL has paid amount of Rs. 59,00,000/- out of the fraudulent diverted funds from the aforesaid accounts of SMVSSL. The petitioner did not co-operate during the course of investigation and knowingly concealed vital information about receiving huge amount of Smt. Manorma Devi and SMVSSL, booking of various properties at Gardenia India Ltd in the name of co-accused persons.

7. Having heard learned counsel for the parties and

considering the facts and circumstances of this case as well as the custody of the petitioner, the Court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be enlarged on bail in connection with RC 6/A/2018 giving rise to Spl. Case No. 11 of 2020 arising out of Sabaur (Bhagalpur) P.S. Case No. 241 of 2017 on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Spl. Judicial Magistrate, C.B.I., Patna.

(Sunil Kumar Panwar, J)

Shubham/-

U		T	