IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61232 of 2024

Arising Out of PS. Case No.-12 Year-2018 Thana- C.B.I CASE District- Patna

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Banshidhar Jha S/o Sri Janardan Jha R/o Vilalge- Budhai Tola, Bhikhanpur. Bhath Road, P.S- Ishakchak, Dist.-Bhagalpur

... ... Petitioner/s

Versus

The Central Bureau of Investigation (C.B.I.), Patna Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Pratap Singh, Advocate
	:	Mr. Rajesh Kumar, Advocate
For the C.B.I.	:	Mrs. Nivedita Nirvikar, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 27-09-2024 Heard Mr. Uday Pratap Singh, learned counsel for the petitioner and Mrs. Nivedita Nirvikar, learned senior counsel for the Central Bureau of Investigation.

2. The petitioner is apprehending his arrest in connection with RC No. 12/S/18, giving rise to Spl. Case No. 08/2023 arising out of Kotwali (Bhagalpur) P.S. Case No. 650 of 2017, F.I.R. dated 16.08.2018 for the offences punishable under Sections 120-B, 409, 420 & 468 of the Indian Penal Code as well as Section 13(2) r/w 13(1)(c) & (d) of the Prevention of Corruption Act, 1988.

3. According to prosecution case, the case is related to illegal transfer and misuse of funds from Government Bank accounts in Bhagalpur, Bihar in fraudulent and conspiratorial

manner.

4. Learned counsel for the petitioner submits that petitioner has got no criminal antecedent prior to the institution of the Srijan cases but after coming into light the financial irregularities committed by the N.G.O., namely, Srijan Mahila Vikash Sahyog Samiti Ltd. (SMVSSL), the petitioner has been implicated in altogether 11 cases other than the present.

5. Learned counsel for the petitioner submits that during course of investigation the C.B.I. has submitted first charge sheet on 30.12.2019 vide charge sheet bearing no. 27 of 2019 wherein three persons, namely, Navin Kumar Saha (the then Branch Manager, BOB), Mr. Sant Kumar Sinha (the then Assistant, BOB) and one Sarita Jha (the then Manager, SMVSSL) have been chargesheeted and no substantial material has been found against the petitioner. Hence, the name of the petitioner does not figure in the 1st charge sheet but after about five years of the submission of the first charge sheet, the C.B.I. has submitted supplementary charge sheet bearing no. 12 of 2023 dated 28.06.2023 in which the name of the petitioner is mentioned in paragraph no.XVI of the supplementary charge sheet stating therein that the petitioner was having a printing press and he used to does some work assigned to him by the

then Secretary of SMVSSL. The acquisition of the petitioner is merely based on hard disc seized by an another investigation agency team.

6. Learned counsel for the petitioner further submits that the petitioner did not prepare the copy of the so called bank statement and the petitioner is not a beneficiary of the entire happenings as during the course of investigation, the investigating agency has not found any amount/property excess to the known sources of the petitioner. The entire case is based on documentary evidence, therefore, there is no chance at all that the petitioner temper the evidence or influence the witnesses in any way.

7. Learned counsel for the petitioner relies upon a judgment passed in SLP (Cri.) No. 376 of 2023 (Mahdoom Bava Vs. Central Bureau of Investigation) the Hon'ble Apex Court vide his judgment dated 20.03.2023 has held that *in those cases where the presence of the accused is not required for the investigation, there is no necessity of their arrest*. In this case, the charge sheet has been submitted by the CBI merely on the basis of the suspicion and the petitioner is a private person and he has nothing to do with the alleged financial irregularities.

8. Learned counsel for the petitioner further submits

that similarly situated other co-accused person, namely, Sarita Jha, has been granted bail by a co-ordinate Bench of this Court vide orer dated 30.06.2021 passed in Cr. Misc. No. 10295 of 2021, co-accused person, namely, Navin Kumar Saha @ Nabin Kumar Saha, has also been granted bail by this Court vide order dated 14.12.2021 passed in Cr. Misc. No. 33226 of 2021 and co-accused person, namely, Sant Kumar Sinha has been granted bail by this Court vide order dated 15.12.2021 passed in Cr. Misc No. 43659 of 2021.

9. Mrs. Nivedita Nirvikar, learned senior counsel for the Central Bureau of Investigation vehemently opposed the prayer for bail of the petitioner and submits that the name of the petitioner is mentioned in paragraph no.16 of the supplementary charge sheet which is quoted hereinbelow;

> *(XVI) Investigation has revealed that after scrutiny of copy of hard disc of Bansidhar Jha, received from CBI AC-II Branch, 05 files has been found relating to account statement of account no. 10010100003002. During the course of investigation, Rajinder Pal Singh, R/o. District Agra, UP was traced and examined. He stated that he was driver of Manorma Devi and her son Amit Kumar. He further stated that he knew Bansidhar Jha, as he used to regularly visit the house*

> *of Manorma Devi. Bansidhar Jha was running computer graphics and printing press in Bhikhanpur, Gumti No. 03, Bhagalpur. At times, Manorma Devi used to send him to the said printing press of Bansidhar Jha with passbook(s) of different Banks. He used to hand over the passbook(s) to Bansidhar Jha at his printing press and used to wait there, while Bansidhar Jha used to do something on the computer with the given passbook. Thereafter, he used to return those passbook(s) to Manorma Devi. In this way, the role of Bansidhar Jha has been proved by independent witness Shri Rajinder Pal Singh. Report of CFSL is awaited in this regard.*

In view of the aforesaid, it suggest that the petitioner is involved in the present crime in question and petitioner is used to do something on the computer with the given passbook and apart from that CFSL report is awaiting in this regard and apart from that the petitioner carries eleven more cases other than the present one but fairly submits on the basis of the paragraph no.3 of the bail petition that out of 11 cases, the petitioner in on bail in 9 cases.

10. Considering the aforesaid facts, in the present case charge has already been submitted and there is no allegation of tempering with the evidence against the petitioner and present

case is based on documentary evidence and custodian interrogation is not required in this case, let the petitioner, above named, in the event of arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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, Patna in connection with RC No. 12/S/18, giving rise to Spl. Case No. 08 of 2023 arising out of Kotwali (Bhagalpur) P.S. Case No. 650 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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 his absence on two consecutive dates without sufficient reason, his 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 his 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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