

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16302 of 2022

Arising Out of PS. Case No.-17 Year-2018 Thana- C.B.I CASE District- Patna

SATISH KUMAR JHA S/o Late Kameshwar Jha Resident of Flat No. 101,
Block- A, Aungbihar Apartment, Rani Talab, Sabaur Road, Bhagalpur, P.O.
Fatehpur, P.S. Zeromile, Bhagalpur, District - Bhagalpur.

... .. Petitioner/s

Versus

THE CENTRAL BUREAU OF INVESTIGATION (CBI) ACB, Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.S.D.Sanjay, Sr. Adv. Mr.Shashank Shekhar Jha, Adv.
For the C.B.I	:	Mr.Avanish Kumar Singh, S.P.P., C.B.I. Mr.Ambar Narayan, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

9 -03-2023 Heard Mr. S.D. Sanjay, learned Senior Counsel for the
petitioner assisted by Mr.Shashank Shekhar Jha, Advocate and
Mr. Avanish Kumar Singh, S.P.P. for the C.B.I. assisted by Mr.
Ambar Narayan, Advocate.

The petitioner apprehends his arrest in a case registered
for the offence punishable u/s 120B, 34, 409, 419, 420, 467, 468
and 471 IPC and 13(2) r/w section 13(i)(c) & (d) of the
Prevention of Corruption (P.C.) Act, 1988.

This case arises from infamous Srijan Scam. The
petitioner in connivance with office bearers of Srijan Mahila
Vikas Sahyog Samiti Limited (hereinafter for the sake of brevity
referred to as 'SMVSSL') and others is said to have fraudulently



misappropriated the fund amount remitted through Govt. account payee cheques issued in favour of B.D.O. Kahalgaon by deliberately depositing and crediting the cheques in the Bank Account of Srijan. Hence, in collusion of Bank of Baroda, Officials and Indian Bank Officials, Bhagalpur with SMVSSL have acted collusively and cheated the Govt. administration.

It is submitted by learned Senior Counsel for the petitioner that petitioner is not named in the F.I.R. and has been falsely implicated in this case. Petitioner has got six criminal antecedents, as stated in para-3 of the bail application. It is submitted that no specific allegation has been found against the petitioner. He is not said to be beneficiary in the entire happenings as during the course of investigation, not a single penny has been seized/recovered from the account of the petitioner or from any other source. There is no specific involvement of the petitioner in defalcation of public fund. The only allegation mentioned in paragraph no.16(x) & 16(xi) of the charge sheet is that the said 'pay in slip' or 'depositing slip' has been written by the petitioner but neither signature over the pay in slip nor any proof could be find out by the prosecution during investigation. It is submitted that petitioner is retired and suffering from many diseases. During investigation, the



petitioner has co-operated and he was not arrested during the investigation, therefore, no custodial interrogation is required in the present case. This case is based on the documentary evidence and all the document was seized by the C.B.I. and there is no allegation against the petitioner to tamper the witness. Some of the co-accused in connection with the Srijan Scam cases have been granted anticipatory bail by co-ordinate Bench.

Learned counsel for the C.B.I. opposed the bail application and submits that the case is related to illegal transfer and misuse of funds from Government bank accounts in Bhagalpur, Bihar. The investigation further revealed that the said 'pay in slip' has been written by the accused petitioner Satish Kumar Jha, retired Auditor, Department of Co-operative, Government of Bihar, Bhagalpur. The investigation established that the cheque No.007933 dated 16.01.2010 for amount of Rs.1,61,00,000/- in favour of BDO, Kahalgaon was deposited in the Indian Bank of Baroda, Bhagalpur for crediting in the account no.727901498 of BDO, Kahalgaon but it was fraudulently and dishonestly credited in the account no.822726120 of Srijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur, maintained at Indian Bank, Bhagalpur by Sr.



Pradyut Biswas as maker and Sri Surajit Raha as checker in connivance with Sri. Satish Kumar Jha and late Manorama Devi. Investigation established that the cheque no.141026 dated 15.05.2010 of Rs.1,63,41,700/- in favour of BDO, Kahalgaon was deposited in the Indian Bank of Baroda, Bhagalpur for crediting in the account no.727901498 of BDO, Kahalgaon but it was fraudulently and dishonestly credited in the account no.822726120 of Srijan Mahila Vikas Sahyog Samiti Limited, Sabour, Bhagalpur maintained at Indian Bank, Bhagalpur by Sri Hare Krishna Adak as maker and Sri Pradyut Biswas as checker, in connivance with Satish Kumar Jha and late Manorama Devi. Learned counsel for the C.B.I. further submits that allegation against the petitioner is that the petitioner has filled up the pay in slip. The said pay slip was sent to the C.F.S.L. whereby it was found that the said entry is written by the petitioner. It is further submitted that the petitioner was getting monetary benefit from the account of the Srijan Mahila Vikas Sahyog Samiti Limited and out of the same, some money, amounting in lakhs have been spent for the flats booked by the sons and the daughter of the petitioner, which shows that petitioner is also monitoring benefit from the SMVSSL. The petitioner has received Rs.12,50,000/- in three instances from late Manorama Devi for the payment of



Flat No.Emerald-1/605 in the name of his sons. Flat No.505, Emerald-I, Gardenia Glamour at Vasundhara, Ghaziabad was booked in the name of her daughter for an amount of Rs.25 Lacs. Out of the said amount, payments of Rs.2 Lacs on 3.12.2012 and 2.5 Lacs on 17.04.2014 were made from the account of SMVSSL.

Heard, the arguments of both parties and perused the record including the case diary. Earlier, two anticipatory bail applications of the petitioner was also rejected by this Court, in connection with Special Case No.11/2020, arising out of R.C. No.6(A)/2018 and Special Case No.01/2020, arising out of R.C. No.15/S/2018, both relating to the Srijan Scam but in the judgment of the Apex Court in ***Mahdoo Bava vs. Central Bureau of Investigation***, arising out of ***SLP (Crl.) No.376 of 2023***, it is categorically mentioned at para-10, that the appellants apprehend arrest, not at the behest of the C.B.I. but at the behest of the Trial Court. Para-9 and 10 of the said judgment reads as follows:-

“9. On the strength of the aforesaid allegations, which are certainly serious in nature, the prayer of the appellants for anticipatory bail is opposed vehemently by the learned Additional Solicitor General. But in our considered view there are at least three factors which tilt the balance in favour of the appellants herein. They are:-



(i) Admittedly, the CBI did not require the custodial interrogation of the appellants during the period of investigation from 29.06.2019 (date of filing of FIR) till 31.12.2021 (date of filing of the final report). Therefore, it is difficult to accept the contention that at this stage the custody of the appellants may be required;

(ii) In the reply/counter filed before the High Court, the CBI had taken a categorical stand that the Court had merely issued summons and not warrant for the appearance of the accused. In the case of Shri Deepak Gupta, CBI had taken a stand before the Special Court that "the presence of the accused is not required for the investigation but it is certainly required for trial" and that therefore he needs to be present. Therefore, all that the CBI wanted was the presence of the accused before the Trial Court to face trial. In such circumstances, to oppose the anticipatory bail request at this stage may not be proper; and

(iii) All transactions out of which the complaint had arisen, seem to have taken place during the period 2009-2010 to 2012-2013 and all are borne out by records. When the primary focus is on documentary evidence, we fail to understand as to why the appellants should now be arrested.

10. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be a practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We



must keep this in mind while deciding the fate of these appeals.”

Considering the Apex Court order, in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation (C.B.I.) & Anr.*** and para 9 & 10 of the case of ***Mahdoom Bava (supra)***, I am inclined to enlarge the petitioner on anticipatory bail.

Accordingly, the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Special Case No.10/2020, RC No-17/S/2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C., as also the following conditions:-

(i) Petitioner shall co-operate into trial and shall be properly represented on each and every date fixed by the trial court and shall remain physically present as directed by the trial court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the trial court.



(ii) If the petitioner is found tampering with the evidence or the witnesses in this case, the prosecution will be at liberty to move for cancellation of bail.

(iii) The petitioner shall surrender his Indian Passport before the trial court, if he is in possession of the same and without the permission of the trial court, he will not leave the State.

(Anjani Kumar Sharan, J)

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