

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 581 of 2015

Subhash Prasad Sao S/o Late Sharda Prasad Sao Aged About 44 Years R/o Junwari Road, Pushpak Nagar, Civil And Rev. Distt. Durg Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through District Magistrate, Raipur Chhattisgarh.

---- Respondent

For Petitioner – Shri Manish Sharma, Advocate.

For Respondent/State – Shri S.C. Khakaria, Dy.A.G. and Smt. M. Asha, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

30/09/2015

1. Challenge in this petition is to the order dated 23/04/2015 whereby the trial court has directed to furnish a bank guarantee of Rs.20 lakhs to the petitioner Subhash Prasad Sao. Admittedly, in this case charge sheet has been filed. Learned counsel for the petitioner would submit that crime bearing No.180/2014 was investigated under section 420, 467, 468, 471, 34, 120-B of I.P.C. and section 3 & 7 of the Essential Commodities Act. Petitioner was directed not to operate any transaction in the bank account till investigation is complete. It is further submitted that after completion of the investigation, the charge sheet has been filed, however by the order, operation of the account has been withheld. He therefore submits that when application was filed before the court below wherein the trial is pending court has directed to furnish bank guarantee of Rs.20 lakhs in respect of the said account despite the fact that nexus of the proceeds of the said bank account has not been established with the crime and it was

observed also. He submits that under such circumstances directing to furnish bank guarantee of Rs.20 lakhs to operate bank account is without any jurisdiction and absurd.

2. Specific question being asked to the State counsel as to what is the nexus in between the crime and the bank account, learned State counsel is also unable to submit any fact and return filed by the State also is not clear to the point. Reading of the order would show that when on application filed before the trial court, trial court had observed that examination of the charge sheet do not connect the bank account with any commission of crime. Further more, the notice sent by the Special Investigation Cell Police under Section 91 and 102 of Cr.P.C. also contain the direction that till the investigation is done concerned account may not be operated. Charge sheet having been filed, investigation is complete and when it has not been established as to the nexus of the account with the crime it would be unreasonable to upheld the order of the trial court to furnish bank guarantee of Rs.20 lakhs.

3. Consequently, that part of the order whereby petitioner has been directed to furnish bank guarantee of Rs.20 lakhs is quashed. Petitioner shall be at liberty to operate bank account as per rules and procedure of the bank and shall furnish copy of statement of the bank account before the court six monthly.

4. Accordingly, Cr.M.P. stands allowed to the above extent.

Sd/-
(Goutam Bhaduri)
JUDGE