IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-33677-2016

Date of Decision: 12.12.2016

Sukhraj Singh alias Raja

...Petitioner

VERSUS

Assistant Director, Directorate of Enforcement

....Respondent

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present:- Mrs. G.K.Mann, Advocate for the petitioner.

Ms. Ranjana Shahi, for the respondent.

Ms. Reeta Kohli, Addl. AG Punjab.

SUDIP AHLUWALIA, J.

This is a petition for bail preferred on behalf of the petitioner in Complaint No.3/2016 Dated 27.4.2016 under the provisions of Prevention of Money Laundering Act (PMLA), 2002, filed by the respondent/Assistant Director, Enforcement, Government of India, Jalandhar. A number of FIRs registered against the various accused persons have been referred to in the Heading of the petition and complaint (Annexure P-1), on the basis of which, the aforesaid case was started. The petitioner has, however, been implicated on account of his involvement in one of those FIRs, being FIR No.45 of 2013 Dated 3.3.2013 of Police Station Fatehgarh Sahib under various provisions of the IPC, Arms Act and the NDPS Act, 1985.

2. The background of the matter is that the Punjab Police Authorities investigating the aforesaid FIR had got the petitioner declared a Proclaimed Offender, vide an order dated 27.11.2014, after which, he was allegedly nabbed in the vicinity of the Delhi Airport on 13.8.2015. While thus remaining in detention in connection with the aforesaid FIR No.45 dated 3.3.2013, he was taken into custody in the present complaint case on 29.2.2016 and was also subjected to interrogation. He thereafter filed the instant bail petition on 19.9.2016.

3. It has been opposed on behalf of the respondent/Assistant Director Enforcement Branch, whose reply against the bail petition has also been placed on record. The respondent has opposed the bail prayer by contending inter-alia that he is a Canadian Citizen and used to receive Drugs in Canada, which were sent by a Local Drug Kingpin Jagdish Singh @ Bhola. The petitioner is alleged to have collected the Proceeds of those Drugs in Canada and sent the same to Jagdish Singh @ Bhola in India through 'Hawala Channels'. He is alleged to have admitted to sending the amount totaling ₹ 5 Crores during the period from 2007 to 2013 through 'Hawala Channels', which was the earning from the Drugs and that Jagdish Singh @ Bhola had told him that he will purchase land for him out of his share in the said amount. The respondent has also contended that about three acres of agricultural land was purchased by Jagdish Singh @ Bhola for the present petitioner in the name of his younger brother Jaswinder Singh, who is also residing in Canada for an amount of ₹ 1,07,00,00/-, which was allegedly given in cash by Jagdish Singh @ Bhola, who had appeared on behalf of the purchaser in the Tehsildar's Office at the time registration. Further according to the respondent, another co-accused, namely Balbir

Singh, had in his statement, corroborated this allegation regarding purchase of the agricultural land in the name of the petitioner's brother Jaswinder Singh by Jagdish Singh @ Bhola. It is also contended by the respondent that the purchase price of the property was shown as ₹ 16,65,000/- only, although an amount of ₹ 1,07,00,000/- was actually paid in cash and that the petitioner has not filed any Income tax return. The respondent has also opposed the bail prayer by contending that the petitioner is a habitual offender and a separate charge sheet has been filed against him in FIR No.180 Dated 22.7.2009 at Police Station Focal Point, Ludhiana under N.D.P.S. Act.

4. It has been contended on behalf of the petitioner that he has already been granted bail in the original case drawn up in FIR No.45 dated 3.3.2013, and therefore, ought to be similarly released on bail in the present case under the PMLA. It is correct that he was ordered to be released on bail in the aforesaid previous case vide detailed order passed by this Bench in CRM-M-40333 of 2015 on 30.9.2016. But undoubtedly, that was basically in view of the factual background that he had already remained in detention in that case for more than two years and that no tangible material against him had come forth during the trial in which a private witness namely Balbir Singh had refrained from making any incriminating statement against him and was declared 'hostile' by the prosecution. But the nature and scope of offences imputed to him in the present case are entirely different from those covered in the previous case, which was drawn up under the NDPS Act. Here, the basic allegations are overwhelmingly financial in nature and the petitioner is alleged to have indulged in 'Money Laundering' by way of investing/utilizing a huge amount of money allegedly generated

by him from illegal activities. His own statements recorded under section 50 of the PMLA at this prima facie stage cannot be simply brushed aside, since the admissibility of the same is not explicitly barred under the law. Furthermore, his failure to explain his income and assets do persuade us to reject his prayer for release on bail at this early stage when apparently the formal trial in the Money Laundering case is yet to commence. Consequently, his bail application is dismissed at this stage and the matter thus stands disposed of.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

December 12, 2016
AS

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No