

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.847 of 2018

Arising Out of PS. Case No.-16 Year-2013 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

Manish Kumar, S/o Late Siya Saran Patel @ Siya Ram Sharan Akela, R/V Jaipal Patti Chowk, Ward No. 15, Madhepura, P.S.- Madhepura, Distt.- Madhepura at present flat No. 201, Monika Apartment, Anandpuri, Boring Canal Road, P.S.- Sri Krishnapuri, Distt.- Patna. Petitioner

Versus

The State of Bihar through the Economic offence, Patna.... .. Respondent

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Sinha
For the Respondent (Eou)		Mr. V.N.P Sinha ,Sr. Advocate
		Mrs. Soni Shrivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 03-07-2018

This criminal writ application has been preferred by the petitioner for issuance of an appropriate writ/order/direction to the respondent authorities to release the pass-book, gold ornaments and other articles mentioned in the seizure list of Flat No. 201, Monika Apartment, Anandpuri, Boring Road, Patna in favour of the petitioner and further to de-freeze the Bank Account of the petitioner after quashing the order dated 02.04.2016 passed by learned Special Judge (vigilance)-1, Patna (Annexure-8 to the writ petition) by which the learned Special Judge has been pleased to reject the prayer of the petitioner for release of the seized articles.

2. The facts of the case would reveal that in course of verification taken against one Awadhesh Kumar Mandal, an



Executive Engineer of Building Construction Department, Muzaffarpur, it was found that he had amassed property disproportionate to the known source of his income during the period 23.06.1985 to 31.12.2009. The first information report as contained in Annexure-1 to the writ application has been lodged against him for the offences alleged under Sections 13 (2) read with 13 (1) (e) of the Prevention of Corruption Act, 1988.

3. In course of raid, the Police searched the government house of Awadhesh Kumar Mandal at Muzaffarpur as also flat Nos. 201 and 202 in Monika Apartment at Anandpuri, Patna. Annexure-2 series to the present application is the photo copies of the inventories-cum-search and seizure list which shows that, apart from some cash, some pass-books and jewelries etc. were seized. Inventories of household goods were also prepared, but possession thereof remained with the accused Awadhesh Kumar Mandal.

4. The petitioner had claimed release of two cars which was rejected by the court below, but a co-ordinate Bench of this Court ordered for release of the vehicles in favour of the petitioner on adequate sureties. Thereafter, the petitioner filed an application for release of his pass-books, gold ornaments and other articles before the learned Special Judge (Vigilance)-1,



Patna which has now been rejected. Learned counsel for the petitioner has assailed the impugned order. Submission is that the pass-books and jewelleryes and the properties of the petitioner hence, he may be handed over their custody. It is also submitted that the Bank Account of the petitioner may be de-freezed and allowed to be operated.

5. It appears that the respondents have an objection on the release of the articles as, according to the respondents/Investigating Agency, those are the investments of the accused Awadhesh Kumar Mandal. A counter affidavit has been filed on behalf of the respondents in which it is stated that the petitioner is the brother-in-law of the accused and he used to live in the same flat. It is stated that the petitioner has made a wrong statement in the writ application that he was residing in the flat on rent along with his wife. In investigation, flat nos. 201 and 202 have been found registered in the name of wife of the accused and both the flats were interconnected from inside and were used as a single unit. The petitioner never disclosed in course of investigation that he had taken the flat in question on rent. The Investigating Officer has found that the bank pass-book bears joint account details of this petitioner with the wife of the accused and the address mentioned in the pass-book is



that of the flats of Monika Apartment. The investigation has further revealed that the petitioner had purchased two flats in his own name at Shyam Bhavan at Boring Canal Road as also he purchased two very costly vehicles whereas his independent source of income itself is in cloud. It has also been found that the petitioner having acquired in his own name two shops in Pushpanjali Plaza, Boring Road, Patna gifted them to the wife of the accused and further gifted two flats in Sri Ram Palace, Station Road to the son of the accused and further two flats, one at Patna and one at Bangalore, in the name of daughter and wife of the accused.

6. It is submitted that charge-sheet has already been filed in this case against the accused public servant as well as the wife of the public servant and this petitioner. He is facing prosecution under Section 109, 120B of the Indian Penal Code. In these circumstances, it is submitted by Mr. V. N. P. Sinha, learned Senior Counsel assisted by Ms. Soni Kumari learned Advocate on record, that de-freezing of accounts maintained in the name of this petitioner, return of the pass-book and the jewellerys during the pendency of his trial is neither legal nor desirable in the facts and circumstances of the case.

7. Having considered the submissions advanced at



the Bar and on going through the materials available on the record, this Court finds that in the nature of report submitted by the Investigating Officer linking the acquisitions of the properties in the name of this petitioner with the ill-gotten money earned by the accused public servant, the allegations that the pass-books are in joint name of the petitioner and the wife of the public servant and the income of the petitioner itself is under cloud and several other grounds raised in the counter affidavit of the Investigating Agency, it would not be just and proper to grant reliefs prayed for in the writ application.

8. This writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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