IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53806 of 2017

Arising Out of PS.Case No. -13 Year- 2014 Thana -ECONOMIC OFFENCES, BIHAR District- PATNA

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1. Braj Bhushan Prasad Sinha, S/o Ambika Prasad Sinha, the then Executive Engineer, PHED, Bhabhua (Kaimur), permanent resident of Mohalla- Jakkanpur New Area, Ram Path, P.S.- Jakkanpur, P.O.- Mithapur, District- Patna- PIN- 800001, at presently 102, A-1, Ganga Jalalpur City, P.S.-Rupaspur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Inspector General, Economic offence Unit, Patna, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. K. D. Chatterji, Sr. Advocate with
Mr. Chandan Jha, Advocate

For the Opposite Party/s : Mr. Vishwanath Pd. Sinha, Sr. Advocate with
Ms. Soni Shrivastava, Advocate (EOU)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

10/ 26-02-2018 Heard learned senior counsel for the petitioner and learned senior counsel for the Vigilance.

Petitioner apprehends his arrest in **Economic Offence Unit P.S. Case No.13 of 2014** instituted for the offence under Section(s) 13(2) read with read Section 13(1)(e) of the Prevention of Corruption Act, 1988.

Prosecution case, in short, is that the petitioner, the then Executive Engineer, PHED, Bhabhua, Kaimur, during his service period amassed disproportionate assets. It is alleged that the petitioner during his posting at different places in Bihar has earned illegal money and amassed immovable property in the name of his family members at different places, which is much more than his known source of income. It is further alleged that petitioner's wife is a house wife and not engaged in any service or profession and his children are also pursuing their studies. As per the First Information Report, the petitioner allegedly acquired disproportionate income to the tune of Rs.87.20 lacs during his service tenure as Executive Engineer. He was not able to prove that the said income is from his known source of income.

During hearing of this bail application, counsel for the petitioner has submitted that Economic Offence Unit has totally overlooked the fact that the petitioner has a joint family. His wife and children have their own source of income.

This Court on the basis of such submission made by the petitioner, by order dated 28.11.2017, directed the petitioner to give explanation about different source of his income before the Economic Offence Unit.

A Counter Affidavit has been field on behalf of the Economic Offence Unit stating therein that the petitioner has submitted voluminous document and appeared in person in terms of the order dated 28.11.2017. In the Counter Affidavit, it has been mentioned that huge amount of independent income of petitioner's wife has been shown through operation of Coaching Centre and business of Embroidery, but during investigating no cogent material was produced or placed for consideration. Wife of the petitioner could not produce any fee receipt or any books of accounts for consideration. Similarly, with respect of business of embroidery, nothing was submitted as proof thereof. Neither any working place nor any staffs was produced. It is also mentioned in the Counter Affidavit that both sons and daughter of the petitioner were studying when the First Information Report was lodged and they had no independent income. During investigation, nothing substantive was brought to justify the independent source of income so far children of the petitioner are concerned.

It is mentioned in the Counter Affidavit that all such income has been shown only to convert the ill gotten money of the petitioner by developing the books of his wife, son and daughter whose income tax return was filed showing independent income for them.

Rejoinder to the Counter Affidavit has been filed by the petitioner, wherein, the petitioner could not produce any substantive evidence except levelling allegation that his various documents were not looked into properly.

Counsel for the petitioner has submitted that the present First Information Report has been lodged by Economic Offence Unit, which was created by the State of Bihar vide Gazette Notification dated 25.03.2013. Constitution of Economic Offence Police Station was challenged before this Court and by majority judgment in the case of ***Md. Yunus and analogous cases*** reported in ***2017 (2) PLJR 292***, this Court has upheld the validity of order of the Govt. of Bihar constituting Economic Offence Police Station. The Hon'ble Supreme Court vide order dated 21.07.2017 passed in SLP (Crl.) No.005469-005470 (Diary No.15687 of 2017) has stayed the order of the Hon'ble Court upholding constitutionality of the Economic Offence Police Station.

It has also been submitted that this petitioner has also filed criminal writ for quashing of First Information Report of Economic Offence Police Station vide Cr.W.J.C.1029 of 2014 on the basis of the order of the Hon'ble Supreme dated 21.07.2017 passed in SLP (Crl.) No.005469-005470 (Diary No.15687 of 2017) and that application has been directed to be listed after disposal of aforesaid SLP pending before the Hon'ble Supreme Court.

Counsel for the Economic Offence Unit has submitted that no interim protection was given by this Court in the aforesaid Cr.W.J.C.No.1029 of 2014. Investigation against this petitioner is, now, complete and it has been found that the petitioner has amassed assets worth Rs.3,09,09,898/- disproportionate to his valid known source of income. Charge-sheet has been filed against the petitioner for the offence under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act.

In such circumstances, this Court does not find it a fit case for grant of anticipatory bail.

Prayer of the petitioner for grant of anticipatory bail is **rejected.**

(Sanjay Priya, J)

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