

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28387 of 2018

Arising Out of PS.Case No. -20 Year- 2012 Thana -GOVERNMENT OFFICIAL COMP. District -
PATNA

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1. Kumar Pratik, S/o Y.K. Jaiswal, resident of House No. 27, Shivpuri,
Professors Colony Road, P.S. Shastri Nagar, Patna- 800023.

.... Petitioner/s

Versus

1. Union of India, Ministry of Finance through the Director, Enforcement Directorate, Lok Nayak Bhawan, 7th Floor, Khan Market, New Delhi 110001,
2. A. K. Choudhary, Assistant Director, Directorate of Enforcement, Govt. of India, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Advocate

For the Opposite Party/s : Mr. S. D. Sanjay, ASG

Mr. Rajesh Kumar Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 27-06-2018

Heard learned counsel for the petitioner and learned

Additional Solicitor General for the Union of India.

Petitioner apprehends his arrest in **Special Trial No. (PMLA)-2 of 2017 (Ref.: ECIR No.20/PAT/2012 dated 06.12.2012)** instituted for the offence under Section(s) 4 of the PMLA 2002.

According to preliminary enquiry against the petitioner and other accused, it was found offence under Section 3 of the PMLA Act has been committed and a complaint was filed and FIR bearing No.03 of 2007 dated 11.10.2017 was



registered by the Special Vigilance Unit, Patna, Bihar, against Y. K. Jaiswal, the then State Drug Controller, Patna, Bihar, under section 13(2) read with Section 13(1) (e) of the Prevention of Corruption Act for amassing disproportionate assets to the tune of Rs.1,30,75,727/- in the form of movable and immovable properties in his own name and in the name of his family members while working in the different capacities in Health Department, Govt. of Bihar, during the period 01.04.1988 to 15.10.2007. After investigation, Charge-sheet No.01/2009 dated 02.12.2009 in respect of Spl. Case No.77 of 2007 registered by the Special Vigilance Unit was filed against this petitioner and his other family members including the main accused, Y. K. Jaiswal, father of the petitioner.

Counsel for the petitioner submits that entire assets of this petitioner in this case are already under seizure in SVU PS Case no.03 of 2007. The petitioner has never alienated, disposed off, converted, shifted or exchanged any property from the date of seizure i.e. 11.10.2007 till today. The Enforcement Directorate has filed this complaint against the petitioner after taking the present value of those properties. Counsel for the petitioner has further submitted that petitioner has already been granted anticipatory bail in the aforesaid SVU PS Case no.03 of 2007 by



the Hon'ble High Court by order dated 26.02.2010 passed in Cr. Misc. No.45567 of 2009.

Counsel for the petitioner has relied upon the judgment of Karnataka High Court passed in **Writ Petition No.5962 of 2016** and analogous cases (**M/s Obulapuram Mining Co. Pvt. Ltd. Vs. Joint Director, Directorate of Enforcement, Govt. of India, Bangalore and others**) in which it has been held in para 18 that *an ECIR can, only, be registered once there has been a conviction and a judicial conclusion has been arrived at as to the quantum of proceeds of that crime. It is only upon a conviction by a trial court in the predicate offence the accused could be investigated upon accordingly.*

From the allegation in the instant case, it appears that this petitioner is the son of the main accused against whom there is allegation of acquiring properties disproportionate to his source of income.

In the facts and circumstances of the case, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Special Trial No. (PMLA)-2 of 2017 (Ref.: ECIR No.20/PAT/2012 dated 06.12.2012)**, he shall be released on anticipatory bail on



furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **Sessions Judge/Special Judge, Patna**, subject to the conditions as laid down under Section 438(2) Cr. P. C. with further conditions: (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and his absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Sanjay Priya, J)

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