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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6602 of 2017

Neeraj Shrivastava S/o Shri Gyan Prakash Shrivastava, Aged About 43 Years Prop. M/s. N. R. Resources, R/o House No. 28, Block B, Sector 8, Dwarika, New Delhi 110077, Delhi

---- Applicant

Versus

Enforcement Directorate Government Of India, Through Timir Bhattacharjee, Assistant Director, Room No. 302-303, A- B Block Central Excise Building, New Dhamtari Road, Tikrapara, Raipur Chhattisgarh 492001, Chhattisgarh

---- Respondent

Shri Devershi Thakur, counsel for the applicant/s.

Dr. Saurabh Pandey, Special Public Prosecutor for the respondent.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2018

The Respondent lodged a complaint before the Special Court against the applicant on the allegation of having committed offences under Section 3 and 4 of the Prevention of Money Laundering Act, 2002 (for short the 'PML Act, 2002') on the allegation that while the applicant was working as an agent of a company named M/s. Hira Group which is engaged in sale of Iron and Steel products, the applicant cheated the company and without the authority and permission, sold iron ore worth Rs.5 crores for a lesser sale consideration of Rs.3.52 crores. On FIR lodged by the Principal company against the applicant, offences under Section 420, 467 and 471 of IPC was registered. The applicant after having taken that money, used for his own need without returning it to the Principal Company. Therefore, the applicant be prosecuted for commission of offences under Section 3 and 4 of the PML Act, 2002.

2. Learned counsel for the applicant would submit that the applicant has been granted bail in the substantive offence under Section 420, 467, 471 IPC by Hon'ble the Supreme Court on the ground that the applicant has already remained in jail for five years and even more and therefore, in so far as offences under Section 3 and 4

of the PML Act, 2002 is concerned, the applicant may be granted bail because the present offence has been registered only as an offshoot of the alleged offence under Crime no.57/2012 in connection with which he has been granted bail. It is submitted that as there are no allegations against the applicant that the sale proceeds alleged to be collected by the applicant were used for commission of any offence punishable under Narcotics Act or for any dangerous activity, the minimum sentence under Section 3 and 4 of PML Act,2002 could be only three years and maximum sentence would be seven years.

3. Learned counsel for the respondent would submit that looking to the allegations that the applicant is alleged to have used for himself the entire sale proceeds of Rs.3.52 crores without the permission and authority of the Principal company, a *prima facie* case is made out and if the applicant is granted bail, he is likely to abscond or tamper with the prosecution witnesses.

4. After having gone through the material on record, this Court finds that a crime under Crime no.57/12 on 15/02/2012 has been registered against the applicant by M/s. Hira Group on the allegation that the applicant, while working as an agent, sold iron ore worth Rs.5 crores for a consideration of Rs.3.52 crores without proper authority and permission. In that case, the applicant is being prosecuted. The applicant applied for grant of bail and finally vide order dated 22/09/2017 in Special Leave to Appeal (Crl.) No.6530/2017, the Supreme Court granted bail taking into consideration that the applicant has remained in custody for more than five years.

The offences under Section 3 of the PML Act, 2002 is only an offshoot of the earlier offences under Section 420, 467, 471 of IPC in which case, the applicant has already been granted bail. There are no allegations that the money collected by the applicant by sale of iron ore is being utilised for commission of offence under the Narcotics Act or any other dangerous activities but the allegations are that he has used the money for his personal need. There is no material placed on record to show that in the event of grant of bail, the applicant would either abscond or tamper with the prosecution witnesses. More so, there are no allegations that after having released on bail, the applicant has misused the liberty. Therefore, taking into consideration the circumstances, nature of allegations and the maximum punishment which could be awarded for such kind of offence, I am inclined to grant bail to the applicant.

5. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/-

along with one local surety for the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti