**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.5704 of 2019**

Arising Out of PS. Case No.-5 Year-2016 Thana- District- Patna

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Pawan Kumar Jain, son of Late Laddu Lal Jain, R/v- Ramna Road, Near Jain Mandir, P.S.- Gaya Town, Distt.- Gaya.

... ... Petitioner

Versus

The Union of India through Directorate of Enforcement, Government of India.

... ... Opposite Party

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**Appearance :**

For the Petitioner/s : Mr.Vijay Kumar Sinha, Advocate

For the Opposite Party/s : Mr.S.D. Sanjay Sr.Advocate, Addl. S.G. with Mr. Anshuman Singh, C.G.C.

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**

CAV ORDER

8 16-07-2019 Petitioner seeks bail in anticipation of his arrest in connection with Special Trial No. (PMLA) 02 of 2018, arising out of ECIR No. PTZO/05/2016 dated 26.12.2016 for the offence under Section 4 of the Prevention of Money Laundering Act, 2002 (herein after to be referred as 'PMLA'), pending in the court of learned Sessions Judge/Special Judge, Patna

Allegation as per the complaint filed by the Assistant Director, Directorate of Enforcement (PMLA) for the offence under Sections 3 and 4 of PMLA is that on the basis of the complaint, two FIRs have been lodged by Sri Shashi Kumar and Sri Rajesh Kumar respectively for depositing the amount in their accounts by some other persons and misutilising the same in connivance with the Bank officials. The matter was reported to the E.D. officials. It further appears that on scrutiny of Bank Account Statement, it reveals that huge amount of cash to the extent of crores of rupees was deposited after demonetization and the same has been found to have been transferred by RTGS to different accounts and the cash deposit slips and RTGS forms were signed by Sri Moti Lal. However, so far this petitioner is concerned, FIR disclosed that the statement of the petitioner was recorded under Section 50 of PMLA in which he has stated that he knew co-accused Sri Moti Lal but he had no transaction with him. However, Rajesh Kumar, proprietor of M/s. Mas Tara Agency, Muzaffarpur in his statement recorded under Section 50 of PMPA on 7.7.2017 has stated that payments received in the bank account of the complainant, namely, Rajnish Kumar and M/s. Shiva Agro Enterprises, Gaya on 12.11.2016 have been made by the petitioner Pawan Kumar Jain. It further disclosed the involvement of the petitioner in his illegal transaction and after CDR analysis of Mobile No. 9472442870 registered in the name of the petitioner-accused Pawan Kumar Jain, it reveals that he has been in constant touch with Sri Dhiraj Jain, whose Mobile No. is 9471243700 and Sri Rajesh Kumar Agrawal,whose Mobile No. is 9431239215 during the relevant period which established the nexus among Sri Dhiraj Jain, the petitioner Pawan Kumar Jail, Sri Moti Lal and Sri Rajesh Kumar Agrawal in the offence of money laundering. The complaint further disclosed that this petitioner-accused has criminal antecedent and the money was transferred to several Companies and on summons it was found that money was transferred to several Companies which were found to be non-existent. The complaint also disclosed that the cash so deposited and transferred reveals the involvement of petitioner, in process or activity connected with proceeds of crime and projection of the same as untainted. It further disclosed that the petitioner and other accused persons are not involved in any legitimate/genuine business transaction and conspired with Moti Lal for acquisition, transfer and concealment of proceeds of crime, by misusing the bank accounts of complainants.

Submission of learned counsel for the petitioner is that petitioner is nowhere concern with the alleged crime, rather he has been made scapegoat at the instance of other accused persons and even in his statement under Section 50 of PMLA he has accepted that he knew Sri Moti Lal but he had stated that he had no business transaction with him and he had also no connection with other accused persons, namely, Sri Dhiraj Jain, Sri Rajesh Kumar Agrawal and Sri Moti Lal. It has also been submitted by learned counsel for the petitioner that in the case lodged by Sri Rajesh Kumar Agrawal, Proprietor of M/s. Maa Tara Agency, Muzaffarpur being Muzaffarpur Town P.S. Case No. 134 of 2017, he has been granted anticipatory bail by the then co-ordinate Bench of this Court vide order dated 11.8.2017 in Cr.Misc.No. 37821 of 2017 and there is no concrete evidence against him. It has also been submitted that he is only a victim of circumstances and since he has been allowed bail in the main case he is also entitled to anticipatory bail in the present case. Learned counsel for the petitioner has also referred the judgment of Hon'ble Apex Court in Writ Petition (Criminal) No. 67 of 2017 in support of his contention.

Heard Mr. S.D.Sanjay, learned Additional Solicitor General for the Union of India, who has opposed the prayer for anticipatory bail of the petitioner on the ground that this case involves transfer of several crores of rupees after demonetization defeating the purpose of demonetization and crores of rupees has been transferred to the companies at Delhi and Calcutta on the direction of co-accused Dhiraj Jain and Bimal Jain and several of those companies were found to be not in existence and the material collected during investigation clearly disclosed that petitioner is in constant touch with Sri

Moti Lal and Sri Dhiraj Jain through his Mobile. It also transpired that the use of huge cash deposit in the bank account of the complainant and subsequent transfer to the bank account of M/s. Maa Tara Agency, Muzaffarpur was handed over by the petitioner on the direction of Sri Dhiraj Jain and in his statement under Section 50 of MPLA the petitioner has admitted that he knew Sri Moti Lal. Further it has been submitted that this case relates to transfer of crores of rupees to the other companies who are not in existence and some of the payments had been made by the petitioner and moreover the investigation is still continuing and as such petitioner does not deserve anticipatory bail.

Having heard both sides and perused the judgment of Hon'ble Apex Court referred by learned counsel for the petitioner from which it appears that the validity of Section 45 of the Prevention of Money Laundering Act, 2002 has been challenged in that and it appears that Section 45 of the aforesaid Act has been struck down but even on perusal of the above judgment I find that this is not of any help to the petitioner for grant of pre-arrest bail.

Considering the above facts and materials discussed above, I am not inclined to grant the privilege of anticipatory bail to the petitioner. He may surrender and pray for regular bail.

With the above observation, this application is dismissed.

**(Vinod Kumar Sinha, J)**

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