IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15210 of 2019

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

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Dheeraj Jain @ Dhiraj Jain Son of Sri Mahavir Jain Resident of Mohalla- Mir Safayet Ali Road, Purani Godown, P.S.- Kotwali, District- Gaya.

... ... Petitioner/s

Versus

1. THE UNION OF INDIA
2. The Directorate of Enforcement through Assistant Director (PMLA), Patna.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Manoranjan Kumar, Advocate.
For the Opposite Party/s : Mr.Anshuman Singh CGC

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

4 28-05-2019 Heard learned counsel for the petitioner and learned counsel for Union of India.

The petitioner seeks bail in Special Trial No. (PMLA) 02 of 2018, arising out of ECIR no. PTZO/05/2016 instituted for the offence under Section(s) 4 of the Prevention of Money Laundering Act, 2002.

The prosecution case in brief is that two FIRs i. e. Gaya Civil line P.S case no. 339 of 2016 and Gaya Civil line P.S. case No. 340 of 2016 for the offences u/s 419, 420, 467, 468,469,471 and 120B of I.P.C. have been registered. F.I.R. No. 339 of 2016 has been lodged by complainant, namely, Shri Shashi Kumar alleging that two Bank Account nos., as mentioned in the written report, held in the name of his brothers, namely, Shri Rajnish Kumar and Shri Shailesh Kumar and one Bank Account no., as mentioned in the written report, in the name of his firm M/S Shiva Agro Enterprises held with Bank of India GB Road, Gaya, were misutilized in connivance with the Bank officials inasmuch as, huge amount of cash was deposited and transferred to other accounts without their knowledge and consent during the period of demonetization. Another FIR bearing no. 340 of 2016 has been lodged by complainant, namely, Rajesh Kumar alleging that Bank Account as mentioned in the written report standing in his name and in the name of his wife, namely, Smt. Ruby Kumari held with Bank of India, GB Road, Gaya were mis-utilized in connivance with the Bank officials inasmuch as, huge amount of cash was deposited and transferred to other accounts without their knowledge and consent.

Complaint filed under Section 45 of Prevention of Money Laundering Act, 2002, for commission of offence u/s 3, punishable under section 4 of the prevention of Money Laundering Act, 2002 (as amended) was lodged by the complainant i.e. Assistant Director (PMLA), Directorate of Enforcement, Govt. of India, Patna Zonal Office against the petitioner and other accused persons as named in the written report.

The complainant has alleged in the written report that a team of ED officials visited the Bank of India, GB Road Branch, Gaya on 29.12.2016/30.12.2016 and obtained the Bank Account statements, account opening forms and KYC documents of five accounts, as mentioned in the written report, and from scrutiny of those Bank Account statements, it was revealed that substantial amount of cash deposit to the extent of Rs. 7.09 crores have been done after demonetization of currency of Rs. 500/- and Rs. 1,000/- after 8.11.2016. The said cash deposits was found to have been transferred by way of RTGS to different accounts on the same day. The cash deposit slips, cheques and RTGS remittance vouchers of Rs. 7.09 crores during the period 8.11.2016 to 19.11.2016 (during demonetization) in the above said Bank Accounts and its subsequent transfer were obtained from the Bank by the complainant and, on scrutiny of cash deposit slips, cheques and RTGS remittance vouchers, revealed that guidelines issued by the Govt. of India vide RBI notification no. DCM (Plg) No. 1226/10.27.00/2016-17 dated 8.11.2016 were violated inasmuch as third party cash deposits were accepted without the authorization of the account holder and without valid proof of identity. RTGS mandate form was unsigned/signed by third party for effecting debit transactions in respect of the cash so deposited. Signature of the account holder on the account opening form did not tally with signature on the cheques utilized for RTGS transfer. Scrutiny of the five Bank Accounts held with Bank of India, Gaya, revealed that Rs. 10,93,96,000/- cash was deposited and immediately transferred to the different entities during the period September, 2016 to 21.12.2016 i.e. prior to and during demonetization.

As per allegation mentioned in para 9 of the complaint petition, the statement of Moti Lal was recorded under Section 50 of the PMLA, wherein, he has stated that he deposited cash from the period July 2016 onwards in the Bank Accounts of different entities as mentioned in detail in para 9 of the complaint petition with Bank of India GB Road,Gaya. Total cash deposit in the above 17 accounts and 5 accounts under control of the complainants, namely, Shri Rajesh Kumar and Shri Shashi Kumar, amounts to Rs. 39,87,49250/- during the period July 2016 to December, 2016. This cash was handed over to him and subsequently transferred on the same day or other day to the Bank Accounts of certain Delhi and Kolkata based firms as mentioned in the complaint petition on the direction of this petitioner and Bimal Jain Businessmen, based in Gaya and Delhi. He carried out these illegal transactions with connivance of Bank officials, namely, Shri Hemant Kumar Verma, Shri Arvind Kumar and Shri Om Prakash Nand. It has been alleged that during investigation, it came to light that all these firms as mentioned in the complaint petition were fake and non -existent. Summons were issued u/s 50 of PMLA to the addresses of these firms and they were returned with postal endorsement "addressee moved/item delivery unclaimed/Insufficient address". The summons were issued under Section 50 of PMLA on 18.12.2017 and 22.1.2018 to this petitioner, who was proprietor of M/s Sarvodya Traders, Gaya for recording his statement before the Investigating Officer on 4.1.2018 and 19.2.2018. However, he evaded to receive the summon and he has been arrested by Economic offence Bihar unit, Patna on 17.2.2018 in connection with the FIR nos. 339 of 2016 and 340 of 2016. Motilal disclosed the mobile number of Shri Bimal Jain, which is 8595303587. CDR analysis of mobile number 8595303587 registered in the name of Bimal Jain revealed that he was in constant touch with this petitioner and Motilal during the relevant period. This established the nexus among Shri Bimal Jain, Shri Dhiraj Jain and Shri Motilal.

Learned counsel for petitioner has submitted that he has been falsely implicated in this case merely on suspicion. Implication of this petitioner is only on the basis of the statement of Motilal who is kingpin of the whole occurrence.

Mr. Anshuman Singh, learned counsel for the Union of India has appeared and submitted that Motilal in his statement recorded under section 50 of the PMLA confessed to have deposited cash and transferred the same to the Bank Accounts of different entities on the direction of this petitioner and Bimal Jain in connivance with the bank officials. He has received instruction for transfer of money on his mobile no. 9931623500 from the mobile no. 9471243700 of this petitioner over WhatsApp. The CDR analysis of mobile no. 9471243700 of this petitioner revealed that he was in constant touch with Motilal, Bimal Jain and Pawan Jain which shows that he was actively involved in the offence of Money Laundering punishable under section 4 of the PMLA Act,2002. It has further been submitted that it came during investigation that this petitioner was knowingly involved in acquisition, concealment and transfer of proceeds of crime and is knowingly involved in process of activity connected with proceeds of crime and projection of the same is untainted. The petitioner has criminal antecedent as three cases have been filed against him. He further submits that investigation with regard to other cases lodged against this petitioner is still going on.

A counter affidavit has been filed on behalf of the Directorate of Enforcement (PMLA) Government of India, wherein, it is stated that during investigation under PMLA it is established that this petitioner knowingly involved in acquisition, concealment and transfer of proceeds of crime and is knowingly involved in process or activity connected with proceeds of crime and projection of the same is untainted. Motilal, in course of his statement recorded U/s 50 of the PMLA confessed to have deposited cash and transferred the same to the Bank Accounts of different entities on the direction of this petitioner and Bimal Jain in connivance with the bank officials. Shri Motilal admitted that he received instructions for transfer of money on his mobile no. 9931623500 from the mobile no. 9471243700 of this petitioner over WhatsApp. The connivance of this petitioner with officials of Bank of India in misuse of bank accounts is evident from the fact that amount of personal loan sanctioned for the complainants, namely Shri Rajesh Kumar, Smt. Rubi Kumari and Shri Shashi Kumar have been credited to the account of this petitioner. True copy of Bank

Account statements in the name of this petitioner held with the Bank of India, Gaya, is annexed as Annexure- B to the counter affidavit. It is also submitted in the counter affidavit that on analysis of Bank Account statements of Shree Ram overseas and Shree Ganesh Overseas (firms which have been found to be fake and non-existent) it was found that this petitioner has transferred huge amounts to the Bank accounts of these firms through his Bank Account held at S.B.I. Gaya and Bank of Baroda, Gaya. These transactions with some fake and non-existent firms establish conscious involvement of this petitioner in the offence of money laundering. It is also submitted that CDR analysis of mobile number 9471243700 registered in the name of this petitioner reveals that he was in constant touch with Motilal, Bimal Jain and Pawan Jain during the relevant period. Shri Prem Narayan Prasad, in course of his statement dated 22.3.2017 recorded under Section 50 of the PMLA, stated that huge cash, for deposit in the Bank Account held in the name of Motilal/ his firm/family member/relatives in the name of complainants, namely, Shashi Kumar and Rajesh Kumar and their firm/brothers/wife was handed over to him by this petitioner, a businessman of Gaya. The same was subsequently transferred to the Bank Accounts of various firms by both of them. Similarly, several other statements have been made in the counter affidavit in para 8 showing the involvement of this petitioner in the various transactions done during that period in connivance with other accused persons.

Therefore, this Court is not inclined to grant bail to the petitioner at this stage. The prayer for bail of the petitioner stands rejected.

Trial Court is directed to expedite the trial.

(Sanjay Priya, J)

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