IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32680 of 2019

Arising Out of PS. Case No.-2 Year-2015 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

==

MANTU YADAV @ RAJ KUMAR YADAV Son of Bhuneshwar Prasad Yadav Resident of Village - Chiraiyatar, P.S.- Rampur, Dist.- Gaya.

... ... Petitioner/s

Versus

U.O.I. represented THROUGH ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT (Prevention of Money Laundering Act) , GOVT. OF INDIA, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna -800001, Bihar.

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s : Mr.Yogesh Chandra Verma, Advocate
For the Opposite Party/s : Mr.S.D.Sanjay ASG

==

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

4 27-06-2019 Heard learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks bail in Special Trial No. (PMLA) 02 of 2015, arising out of ECIR No. 01/PAT/2013 corresponding to complaint case no. 02 of 2015 instituted for the offence under Section(s) 45 of Prevention of Money Laundering Act, 2002 for offence under Sections 03 and 04 of Prevention of Money Laundering Act, 2002.

The written complaint has been filed by Assistant Director, Directorate of Enforcement, Government of India, Patna Zonal office alleging therein that this petitioner is accused in other cases such as Rampur (Gaya) P.S. case no. 206 of

2006, Rampur (Gaya) P.S. case no. 245 of 2015, Rampur (Gaya) P.S. case no. 254 of 2015 relating to scheduled offences mentioned in PML Act and had acquired money through proceeds of crime. During Investigation conducted under the prevention of Money Laundering Act, 2002 it was found that ill-gotten money to the tune of Rs.09,26,55, 599/- acquired by the petitioner was invested in the form of movable and immovable properties at Gaya in his name as well as in the name of his wife Bindi Devi who is accused no.2 of this case during the periods 2008 to 2015. The detailed complaint filed by the Assistant Director, Directorate of Enforcement, Government of India, Patna Zonal office has been annexed with the bail petition, wherein, it is mentioned in paragraph no.3 and 4 in detail that investigation conducted by the Assistant Director, Directorate of Enforcement, revealed that a total of Rs. 9,26,55, 599/- was acquired by this petitioner and the same has been invested in the form of movable and immovable properties at Gaya, Dehradun in his own name and in the name of his wife Smt. Bindi Devi (Accused no.2) from the earning which was generated by way of illegal means. The details of the movable and immovable properties acquired by this petitioner from the earning generated by way of illegal means have been given in para 5 of the complaint petition. The details of the assets acquired by this petitioner in the name of his wife Smt. Bindi Devi has been described in para 6 of the complaint petition.

Learned counsel for petitioner has submitted that petitioner has been acquitted in all the three cases of the scheduled offence under the Act which were to be taken into consideration for invoking the provisions of the Act. The acquittal of the petitioner in those cases fortifies the case of the petitioner that properties alleged to be laundered is not proceeds of crime nor the same has been acquired as a result of alleged criminal activity. The petitioner is an agriculturist and his majority of income is from the agriculture. It has further been submitted that petitioner out of 11 cases stated to be involved has been acquitted in 09 cases. The presumption under Section 24 of the Act is not applicable in the present case.

A counter affidavit has been filed on behalf of the Union of India. It has been argued that this petitioner had acquired the property in his name and the in the name of his wife from the proceeds of crime committed by him amounting to Rs. 09,26,55,599/- at Gaya and other places as mentioned in the complaint petition. Petitioner has not given explanation to justify the aforesaid acquisition of assets. As per Section 24 of the Act burden of proof lies on the petitioner to justify the acquisition of movable and immovable properties as disclosed in the complaint petition. The petitioner has criminal antecedent as per own statement of the petitioner as mentioned in para 3 that there are 12 other cases pending against him.

The counsel for Union of India further submits that Hon'ble Supreme Court in the case of **Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation (2013) 4 SCC 439** has held that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

In the present case, there is specific allegation against this petitioner in the complaint petition that after investigation conducted by the Assistant Director, Directorate of Enforcement it was revealed that total amount of Rs. 9,26,55,599/- was acquired by the petitioner and the same has been invested in the form of movable and immovable properties at Gaya, Dehradun in his own name and in the name of his wife Smt. Bindi Devi (accused no.2) on the basis of earning generated by way of illegal means. The Petitioner has not given explanation to justify the aforesaid acquisition of assets as required under Section 24 of the Act.

Therefore, taking into consideration the serious nature of allegation levelled against this petitioner of acquiring movable and immovable property which was generated by illegal means by proceeds of crime under Section 2(1)(u) of the Prevention of Money Laundering Act, 2002 Act, this Court is not inclined to grant bail to the petitioner at this stage. The prayer for bail of the petitioner stands rejected.

(Sanjay Priya, J)

shyambihari/-

U		T	