IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48714 of 2018

Arising Out of PS. Case No.-3 Year-2007 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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Yogendra Kumar Jaiswal @ Y.k. Jaiswal S/o late Jagarnath Prasad, Resident of House No. 27 Shivpuri, Professor Colony Road, P.S. Shastri Nagar, Patna-800023

... ... Petitioner

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, Ist Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna.

... ... Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Mr.Hemant Kumar, Advocate
For the Opposite Party/s	:	Mr.S.D Sanjay Addl. Soc. Gen. Mr. Rajesh Kumar Verma, CGC, Ms. Priya Gupta, Advocate,

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

13 30-04-2019 Heard leaned counsel for the petitioner and the leaned Addl. Solicitor General appearing on behalf of Union of India.

The petitioner apprehends his arrest in connection with Special Trial No. (PMLA) – 2 of 2017 (Ref: ECIR No. 20/PAT/2012 dated 06.12.2012), registered under Section 4 of the P.M.L.A. 2002, pending in the court of the Sessions Judge/Special Judge, Patna.

The accusation is that on preliminary inquiry against the petitioner, who was Drug Controller, State of Bihar, Patna, regarding disproportionate assets, Special Vigilance Unit P.S. Case No. 03 of 2007 was registered and on investigation, Chargesheet No. 1 of 2009 was submitted and, accordingly, Special Case No. 77 of 2007 was instituted with regard to disproportionate assets of Rs. One Crore Thirty Lakhs in the name of petitioner and other family members showing Rs. 4835377/- in the name of the petitioner himself. Thereafter, ECIR No. 20/PAT/2012, dated 06.12.2012 in SVU P.S. Case No. 03 of 2007, dated 11.10.2007 was registered by the Special Vigilance Unit against the petitioner and other family members under P.M.L. Act.

Learned counsel appearing on behalf of the petitioner submits that regarding disproportionate assets worth of Rs. One Crore Thirty Lakhs in the name of the petitioner and other family members are accused in Special Trial No. (PMLA) – 2 of 2017 (Ref: ECIR No. 20/PAT/2012 dated 06.12.2012) and the said property has has already been seized by the Vigilance Court and the trial is going on. As such, unless the the petitioner and his other family members are not found guilty in the said case, petitioner and his family members could not be proceeded in the present case in aid of provision of Section 24 of PMLA Act. Further submission is that Kumar

Pratik, son of the petitioner, who is accused in present case has already been allowed pre-arrest bail by a co-ordinate Bench of this Court on 27.06.2018 vide Criminal Miscellaneous No. 28387 of 2018.

On the other hand, learned counsel appearing on behalf of Union of India submits that since no any explanation has been given by the petitioner and his other family members about keeping property, which is disproportionate assets there will be presumption that petitioner and his family members have committed offence punishable under Section 3 of the PMLA Act.

Having considered the fats and circumstances of the case, I am not inclined to allow the privilege of pre-arrest bail to the petitioner, who is main accused. Accordingly, his prayer for pre-arrest bail stands rejected.

(Rajendra Kumar Mishra, J)

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