NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.1242 of 2019

Pawan Kumar Agrawal, son of Shri Radhe Shyam Agrawal, aged about 46 years, resident of Saket Extension, Qtr. No.L-101, Near Agrasen Chowk, Bilaspur

---- Applicant

versus

Enforcement Directorate, Government of India, through Sreekant Purohit, Assistant Director, Enforcement Directorate, Raipur Sub-Zonal Office, A-1 Block, Pujari Complex, New Dhamtari Road, Pachpedi Naka, Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri B.P. Sharma, Advocate
For Respondent	:	Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

11.3.2019

1. In compliance with the order of this Court passed today, necessary correction in the bail application has been carried out.

2. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the Applicant who has been arrested in connection with Complaint Case No.1 of 2018 submitted by the Enforcement Directorate, Raipur and pending before the Special Judge under the Prevention of Money-Laundering Act, 2002 (henceforth 'the PML Act'), Raipur for an offence punishable under Sections 3 and 4 of the PML Act.

3. Facts of the case, in brief, are that the Economic Offences Wing – Anti Corruption Bureau, Raipur (henceforth 'the EOW-ACB') has registered a First Information Report against Alok Agrawal (younger brother of present Applicant Pawan Kumar Agrawal), Executive Engineer, Water Resources Department, Bilaspur and his relatives and friends for alleged commission of an offence punishable under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988 (henceforth 'the PC Act') and Sections 109, 120B, 420, 467, 468 and 471 of the Indian Penal Code. It is alleged that Alok Agrawal, while working as an Executive Engineer in the Water Resources Department, Bilaspur, during the period from 4.7.2008 to 5.1.2015, maliciously generated and accumulated disproportionate property to the tune of approximately Rs.20,28,25,000/- from the sources other than his known sources of income. On the basis of said FIR and after obtaining a search warrant, the EOW-ACB made search of residential premises of Alok Agrawal, Pawan Kumar Agrawal (the present Applicant), Abhish Swamy (a friend of Alok Agrawal) and recovered and seized cash, jewellery, FDRs, Shares and Mutual Funds Certificates etc. On completion of investigation, a charge-sheet was filed for offence punishable under Sections 13(1)(e) and 13(2) of the PC Act and Sections 109, 120B, 420, 467, 468 and 471 of the Indian Penal Code. It was concluded by the EOW-ACB that accused Alok Agrawal has acquired disproportionate assets to the tune of Rs.31,23,64,174/- during the period from 1.4.2004 to 19.1.2015 in his name as well as in the names of his relatives and friends including his brother/present Applicant Pawan Kumar Agrawal. Since the offence under Section 13 of the PC Act and

Sections 120B, 420, 467 and 471 of the Indian Penal Code are scheduled offence, the Enforcement Directorate registered a case under the PML Act against Alok Agrawal and others and after inquiry submitted a complaint case before the jurisdictional Special Court. Allegations against the present Applicant are that he is elder brother of main accused Alok Agrawal. In the year 2003, the present Applicant got registered a proprietary firm, namely, M/s Mahamaya Developers and Builders at Bilaspur and started business with a small capital of only Rs.3,00,000/- and went on to acquire assets of worth Rs.5,27,05,931/- in a span of 10 years. Allegedly, the present Applicant generated the above money illegally with the assistance of his brother Executive Engineer Alok Agrawal. It is further alleged that the present Applicant also assisted his brother Alok Agrawal in laundering of money illegally generated by Alok Agrawal.

4. Learned Counsel appearing for the Applicant submits that the Applicant has been falsely implicated in the case. He is innocent. He further submits that initially the Applicant was arrested on 20.3.2015 in connection with Crime No.5 of 2015 registered at the EOW-ACB for alleged offence punishable under Sections 13(1)(e) and 13(2) of the PC Act and Sections 109, 120B, 420, 467, 468 and 471 of the Indian Penal Code. After filing of the charge-sheet, the Special Court under the PC Act framed charge against the present Applicant for offence punishable under Section 12 of the PC Act and Sections 109 and 120B of the Indian Penal Code. Thereafter, the present Applicant has been granted default bail by this Court vide order dated 31.1.2019 passed in Criminal Revision No.1352 of 2018. Learned Counsel further submits that no *prima* *facie* case is made out against the Applicant for the alleged offence under the PML Act. The Applicant is in custody in the instant matter since 20.8.2018. There is a list of 27 witnesses in the instant matter of complaint case. In the instant matter, one of the co-accused persons, namely, Alka Agrawal has already been granted benefit of anticipatory bail by this Court vide order dated 4.12.2018 passed in M.Cr.C. (A) No.1435 of 2018. In respect of other co-accused Vinod Malewar, vide order dated 31.7.2018 passed in Criminal Revision No.816 of 2018, a direction has already been issued by this Court that no coercive step shall be taken against him. Learned Counsel further submits that trial will take much more time to conclude. He prays that considering the above facts and circumstances of the case and the period of detention of the Applicant, he may be granted benefit of bail.

5. Learned Counsel appearing for the Respondent opposes the above submission. He submits that from the material collected by the Enforcement Directorate a *prima facie* case is made out against the Applicant. Since the Applicant is involved in money laundering of a huge amount, he does not deserve to be released on bail.

6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.

7. Considering the entire material available before this Court, the submissions put-forth on behalf of the parties and also considering that the Applicant is in custody in the instant matter since 20.8.2018, in connection with the instant matter co-accused Alka

Agrawal has already been granted anticipatory bail by this Court, charge has not yet been framed against the Applicant and trial is likely to take much more time, without commenting on merits of the case, I am inclined to enlarge the Applicant on regular bail.

8. Accordingly, the bail application is allowed.

9. It is directed that the Applicant shall be released on bail on his furnishing a personal bond in the sum of Rupees Ten Lakhs with two solvent sureties each of Rupees Five Lakhs to the satisfaction of the concerned Trial Court for his appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
JUDGE

Gopal