IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25531 of 2021
Arising Out of PS. Case No.-1 Year-2017 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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RATAN KUMAR GOENKA son of Late Pashupati Nath Goenka Resident of Goenka Nikunj, Bisheswar Pandey lane amar Cinema Road , Kacchi Sarai, Musahri, P.s.- Mithanpura, Dist-Muzaffarpur- 842002

... ... Petitioner

Versus

UNION OF INDIA THROUGH, ASSISTANT DIRECTOR (PMLA) DIRECTORATE OF ENFORCEMENT, PATNA BIHAR

... ... Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Adv.
		Mr. Hemant Kumar, Adv.
For the Opposite Party/s	:	Mr.K.N.Singh (A.D.S.G), Sr. Adv.
		Mr. Manoj Kumar Singh (ED), Adv.

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

10 05-07-2022 Learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

I have already heard learned counsel for the petitioner as well as learned APP for the State.

The petitioner apprehends his arrest in connection with Special Trial No. (PMLA) 07 of 2020/PMLA SC No. 07 of 2020 under Section 4 of the PMLA 2002 in ECIR No. PTZO/01/2017.

The brief facts of the case is that the first informant namely Kunal Kumar lodged an FIR in Mithanpura police station, Muzaffarpur on 22.12.2016 with an allegation that co-accused Raj Kumar Goenka and his brother Ashok Kumar Goenka, who were proprietors of M/s. Puja Trading Company and M/s Kanta Sales Corporation, have opened bank accounts in the name of informant Kunal Kumar and his brother Neeraj Kumar, dishonestly and fraudulently. Informant, Kunal Kumar, and his brother Neeraj Kumar applied for the post of peon in the above-mentioned companies owned by co-accused Raj Kumar Goenka and his brother co-accused Ashok Kumar Goenka. The informant and his brother tendered their photographs and other details, misusing which co-accused Raj Kumar Goenka and co-accused Ashok Kumar Goenka opened bank accounts in the name of informant and his brother. Rs. 25.80 crores cash were deposited in the bank accounts of Kunal Kumar and Neeraj Kumar amounting to Rs. 13,01,94,512/- in the account of Kunal Kumar and Rs. 12,78,94,516/- in Neeraj's bank account, whereafter dishonestly those amounts were transferred and layered through various bank accounts. It was detected during course of investigation that most of the companies are Kolkata based and have common Directors. It has also been detected that co-accused Pankaj Agrawal has knowingly made Directors of such companies either his own employees or private persons, outsourced by him just with an intention to launder the money and co-accused Raj Kumar Goenka and petitioner-accused Ratan Kumar Goenka, being cousin of Pankaj Agrawal, are also involved in said activity of money laundering. On the basis of the said FIR, ECIR bearing No. PTZO/01/2017 dated 14.02.2017 was lodged by Assistant Director, Enforcement Directorate under Section 45 of PMLA and cognizance has also been taken on 31.10.2020 for the offence punishable under section 4 of the PMLA against the accused persons including the present petitioner.

Learned counsel for the petitioner has submitted that he is innocent and has falsely been implicated in this case. All the allegations are against co-accused Raj Kumar Goenka and co-accused Ashok Kumar Goenka in the FIR and only the allegation against the present petitioner is that he is conspirator, but there is no evidence at all to show that he has participated in the said conspiracy. He has also submitted that total properties mentioned in the complaint have been acquired by the petitioner are out of known sources of income and from the family business. The Directorate of Enforcement also admits that the main accused is Raj Kumar Goenka and this petitioner is conspirator but in the entire case as well as in the statement of informant Kunal Kumar, recorded under Section 50 of the

PMLA, no evidence in respect of conspiracy has emerged at all. The petitioner has falsely been implicated merely because he is brother of co-accused Raj Kumar Goenka and co-accused Ashok Kumar Goenka.

It has further been submitted that the Enforcement Directorate has recorded the statement of informant Kunal Kumar under Section 50 of PMLA, 2002 and the name of the present petitioner has not been whispered and not even a single word has been uttered against the present petitioner Ratan Kumar Goenka in that statement. So it is obvious that the Enforcement Directorate has made this petitioner an accused without any rhyme and reason. There is no any documentary evidence against this petitioner by the prosecution nor any specific incriminating act of this petitioner has been mentioned. The present case, as per submission, does not fall within the ambit of proceeds of crime under Section 2(1)(U) of PMLA, as the prosecution has mentioned in paragraph-3 of the complaint. The learned counsel has also submitted that co-accused Raj Kumar Goenka by submitting the statements of Income Tax Department has admitted that all the transactions were in his names. The learned counsel has also submitted that main accused Raj Kumar Goenka has been granted regular bail in Cr.

Misc. No. 5378 of 2021 vide order dated 31.05.2021 by the coordinate Bench of this Court.

The learned Spl.P.P. for the Enforcement Directorate opposed the prayer for bail and submitted that the present petitioner is also one of the conspirators in opening the accounts in the name of innocent peons of the Company and a huge amount has been siphoned off by the petitioner and his brothers. The present petitioner and his brothers had properties belonging to them derived from the proceeds of crime or value equivalent to the proceeds of crime. It has also been submitted that the present petitioner is directly involved in the process of money laundering in collusion with his brothers and the informant Kunal Kumar, co-accused Raj Kumar Goenka and Pankaj Agrawal all have taken the name of the present petitioner Ratan Kumar Goenka and have stated that cash deposits in the bank accounts of Kunal Kumar and Neeraj Kumar was done by Ashok Kumar Goenka, Ratan Kumar Goenka and the present petitioner.

Considering the fact that the name of the present petitioner has also been emerged as one of the conspirators in the alleged transaction, whereby the huge money was laundered owned by Raj Kumar Goenka, Ashok Kumar Goenka, the present petitioner and other accused persons. As such, I am not inclined to grant anticipatory bail to the present petitioner.

Main accused Raj Kumar Goenka, as stated above, has been granted regular bail, as such, the present petitioner is also directed to surrender before the court below and pray for regular bail within a period of four weeks from today. I do not see any reason as to why the same benefit as co-accused Raj Kumar Goenka should not be granted to the present petitioner. The learned court below while considering the regular bail petition shall take into account entire materials collected during the course of investigation without being prejudiced by this order and shall pass order on its own merits.

With these observations, this criminal miscellaneous petition is disposed of.

Office shall ensure that all defects are removed by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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