

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9399 of 2022

Arising Out of PS. Case No.-1 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Ashok Kumar Goenka, S/o late Pashupati Nath Goenka, R/o Goenka Nikunj,
Bisheswar Pandey Lane, Amar Cinema Road, Kacchi Sarai, Musahri, P.S. -
Mithanpura, Dist- Muzaffarpur.

... .. Petitioner/s

Versus

Union of India through, Assistant Director (PMLA), Directorate of
Enforcement, Patna. Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Hemant Kumar, Advocate
For the Union of India : Mr. Manoj Kumar Singh (ED)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 07-02-2023 Heard Mr. Ramakant Sharma, learned Senior Counsel

for the petitioner and Mr. Manoj Kumar Singh who represents

the Enforcement Directorate.

The petitioner apprehends his arrest in connection
with Special Trial (PMLA) No.07 of 2020/PMLA SC No.07 of
2020 in ECIR No.PT20/01/2017 instituted under Section 4 of
the PMLA, 2002.

As per the prosecution story, Shri Kunal Kumar S/o
Shri Lallu Patel resident of Mohalla -Rambagh P.S.-Mithanpura
District-Muzaffarpur has lodged a complaint before the police
authority on 22.12.2016 regarding the misuse of bank accounts
having nos. (1) 661010034681 held with Kotak Mahindra Bank,
Muzaffarpur & Account No. (i) 133005500452, (ii)



133001502974 & (iii) 030605500653 held with ICICI Bank, Muzaffarpur, which were fraudulently opened by his employer Raj Kumar Goenka and his brother Ashok Kumar Goenka without his knowledge and consent. On the basis of the said complain, an FIR No. 298/16 dated 22.12.2016 was lodged at Police Station Mithanpura, Muzaffarpur, against Raj Kumar Goenka and Ashok Kumar Goenka, both S/o Pashupati Nath Goenka, R/o Amar Cinema Road, Muzaffarpur.

It has been alleged in the said FIR that by using the Photographs & documents submitted by the employee provided at the time of appointment, Raj Kumar Goenka and Ashok Kumar Goenka, fraudulently opened several Bank accounts in their name. They made huge cash deposits to the tune of Rs.13,01,94,512/- through the bank accounts.

It was also found that a survey operation under section 133A of Income Tax Act, 1961 was carried out in the premises of M/s Kanta Sales Corporation. During the course of survey, it has been gathered that Raj Kumar Goenka used bank accounts of his employees to place huge cash for multiple bank accounts of layering through several companies/firms. FIR also revealed that Raj Kumar Goenka along with others have been made accused of acts done by several persons in furtherance of



common intention. Indulging in criminal conspiracy, Cheating and dishonestly inducing delivery of property. Forgery of valuable of valuable security, will etc. Forgery for purpose of cheating and using as genuine a forged document or electronic record. As the offences allegedly committed by Raj Kumar Goenka and others are covered as 'Scheduled offences under Para 1, in Part A' of the Schedule to the Prevention of Money Laundering Act, 2002 (as amended) the, ECIR was recorded by the of Directorate of Enforcement, Patna Zonal office, for initiation investigation under the provisions of PMLA.

Learned Senior Counsel submits that from the sum and substance of the present case, it is clear that it was Raj Kumar Goenka who was managing the entire affair and in that circumstance, the allegations were made against him. However, after refusal of anticipatory bail Raj Kumar Goenka finally went into judicial custody and took the path of bail vide Cr. Misc. No.5378 of 2021 on 31.05.2021.

So far as the other accused person Ratan Kumar Goenka is concerned, his anticipatory bail vide Cr.Misc. No.25531 of 2021 was rejected on 05.07.2022 with an observation that he should also take the route of Raj Kumar Goenka.



However, being aggrieved he moved before the Supreme Court of India in Cr. Appeal (SLP)(Crl.) No.7106 of 2022 (Ratan Kumar Goenka vs. Union of India) in which the Hon'ble Apex Court was pleased to allow the petition with following observation:

“In such circumstance, in our opinion, the High Court ought not to have had insisted upon surrender of the appellant and give him liberty to pray for regular bail. We, accordingly, set aside the order impugned and direct that in the event the appellant is arrested in connection with the aforesaid two cases, he shall be released on bail on such terms the Special Court may consider fit and proper. This order is being passed on the condition that the appellant shall cooperate in the trial and shall appear before the court on all such days he is required to be present. The appeal stands allowed in the above terms.

Learned Senior Counsel submits that in that background since Raj Kumar Goenka has already been enlarged



on bail while Ratan Kumar Goenka has also got the benefit of anticipatory bail, no purpose will be served by rejecting the present petition of Ashok Kumar Goenka, the third brother of the said family.

Mr. Manoj Kumar Singh submits that Ashok Kumar Goenka, the present petitioner also had the same role and considering the allegation that has come against him, he should also take recourse to bail as done by his brother Raj Kumar Goenka. The alternative submission is that Ratan Kumar Goenka was not granted relief by the Patna High Court and he had to take the relief from the Hon'ble Apex Court and as such, the petitioner should also take the same route.

This Court has gone through the facts and circumstance of the case as also the orders passed in case of the two accused persons namely Raj Kumar Goenka and Ratan Kumar Goenka and is of the belief that since both the aforesaid persons have been extended relief, although Raj Kumar Goenka had to take recourse to bail while Ratan Kumar Goenka succeeded before Hon'ble Apex Court, the case will continue and ultimately the accused persons including the petitioner herein will have to face the music, this Court is inclined to grant him the same relief with conditions.



Let the petitioner be released on bail, in the event of his arrest or surrender before the Sub-ordinate court within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs.10,00,000/-(Rupees Ten Lacs) each with two sureties of the like amount each in connection with Special Trial (PMLA) No.07 of 2020/PMLA SC No.07 of 2020 in ECIR No.PT20/01/2017 to the satisfaction of learned Sessions Judge/Special Judge, Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further conditions that:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner will make himself available to the authorities as and when required;

(iii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her bail bond by the Trial court itself;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

Prakash Narayan /-

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