IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33035 of 2021

Arising Out of PS. Case No.-21 Year-2012 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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SHYAM BIHARI S/o Late Mahendra Narayan Chaudhary, R/o village and P.O.- Kharauna Dih, P.S.- Kurhani/Turki, District- Muzaffarpur, Bihar-843108.

... ... Petitioner/s

Versus

UNION OF INDIA THROUGH ASSISTANT DIRECTOR (PMLA) DIRECTORATE OF ENFORCEMENT, 1st Floor Chandpur Palace, Bank Road, West Gandhi Maidan, Patna- 800001, Bihar.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pushkar Narain Shahi, Sr. Adv.
		Mr. Hemant Kumar, Adv.
For the Opposite Party/s	:	Mr. K.N. Singh (Ad.S.G.)
		Ms. Punam Kumari Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

9 01-02-2023 I have already heard Mr. Pushkar Narain Shahi, the learned senior counsel for the petitioner as well as Mr. K.N. Singh, the learned ASG for the Union of India, assisted by Ms. Punam Kumari Singh, the learned CGC.

The petitioner apprehends his arrest in connection with Special Trial No. (PMLA)-10 of 2018 registered for offence punishable under section 4 of the P.M.L.A., 2002.

The brief fact of this case is that on 23.01.2008, S.V.U. P.S. Case No. 1/2008 was registered under Section 13 (2) read with 13 (1) (e) of the P.C. Act against the main accused

Awadhesh Prasad Singh, who was Chief Engineer, Minor Irrigation, Government of Bihar with allegation that while he was posted and functioning in different capacities and different posts under the Government of Bihar, has amassed disproportionate assets amounting Rs. 1.97 crores during the period from 01/01/1980 to 24/01/2008 in his name and in the name of his wife Smt. Bina Sinha and his son, Sourav Kumar. Four accused persons were also made accused including the petitioner, on the basis of that case. The opposite party initiated ECIR-21/Pat/2012 dated 06.12.2012 on the basis of FIR and charge sheet submitted by Special Vigilance Unit P.S. Case No. 01 of 2008, in which the petitioner and others were made accused.

The learned counsel for the petitioner has submitted that the allegation against the petitioner is that he purchased some property from the accused Bina Sinha, who is wife of main accused, Awadhesh Prasad Singh. The learned counsel has submitted further that the petitioner as well as Bina Sinha have been granted anticipatory bail by the co-ordinate Bench of this Court, vide order dated 03.05.2012 in Cr. Misc. No. 15740 of 2012 and this case has been registered on the basis of that case, wherein the petitioner has been granted anticipatory bail. The learned counsel has also submitted that the case was registered against the main accused on 23.01.2008 and on that day, section 13 of the Prevention of Corruption Act as well as Section 120(B) of the Indian Penal Code were not a part of scheduled offence, as such, the subsequent proceeding cannot run against the petitioner. As a matter of fact, the petitioner, who is a contractor, had purchased a piece of land, R.S. Plot Nos. 1080, 1081, 1082 and 1083 under Khata Nos. 383 and 689 in Bhagwanpur Sadar, District-Muzaffarpur from one Md. Hasif and Bibi Jahida Khatoon. His name was mutated and he was coming in peaceful possession thereon. Thereafter, the petitioner learnt that Bina Sinha, wife of Sri Awadhesh Prasad Singh had purchased the same land from one family member of Md. Hasib and the proceeding under Section 144 and 145 of the Cr. PC was going on from before between Bina Singh and Md. Hasib. Bina Singh had purchased the aforesaid land from the family member of Md. Hasib, but as a matter of fact, Md. Hasib is the real owner of that land. The petitioner with a view to avoid litigation and being a man of law abiding attitude, did not want to indulge in litigation and he opted to settle the dispute with Bina Singh and accordingly, with the effort of well wisher of the parties, he purchased that land from Bina Singh after paying her consideration money. The learned counsel for the petitioner has also submitted that the petitioner has filed a criminal writ as Cr.W.J.C. No. 894 of 2019 before this Court against the confiscation proceeding. Though, the matter has not been finally disposed of, but vide order dated 18.06.2019, this Court has ordered the respondents that they shall not dispossess the petitioner of his properties pursuant to the attachment provisional or otherwise under the Prevention of Money Laundering Act. That order has been annexed as Annexure-4 to this petition.

On the other hand, the learned counsel for the Enforcement Directorate has opposed the prayer for bail and submitted that the petitioner is also involved in money laundering act. He assisted the main accused in amassing assets disproportionate to his non-source of income.

This case has been registered on the basis of S.V.U. P.S. Case No. 1/2008, in which the petitioner and other accused persons have already been granted anticipatory bail.

Considering the above-mentioned facts and circumstances, the petitioner above-named, in the event of his arrest or surrender, within four weeks from today, is directed to be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, Patna in connection with Special Trial No. (PMLA)-10 of 2018, subject to condition as laid down under section 438 (2) Cr. P.C.

(Nawneet Kumar Pandey, J)

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