**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.28526 of 2023**

Arising Out of PS. Case No.-5 Year-2018 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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Vinod Yadav @ Binod Yadav Son of Late Kaleshwar Yadav Resident of village-Sarebad, P.S.-Sono, District-Jamui

... ... Petitioner/s

Versus

The Union of India through the Assistant Director, Directorate of Enforcement, Government of India, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna.

... ... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Ms. Priyanka Singh, Advocate

For the Opposite Party/s : Mr. Anshay Bahadur Mathur, CGC

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**

ORAL ORDER

6 01-08-2023 Heard Mr. Yogesh Chandra Verma, learned Senior counsel appearing on behalf of the petitioner assisted by Ms. Priyanka Singh and Mr. Anshay Bahadur Mathur, learned Central Government Counsel appearing on behalf of Union of India ( Directorate of Enforcement, Government of India).

2. Petitioner seeks bail, who is in custody since 06.04.2022, in connection with Special Trial (PMLA) No. 02 of 2021 arising out of ECIR No. PTZO/05 of 2018, Complaint Petition/F.I.R. dated 31.03.2021 registered for the offences punishable under Section 4 of the Prevention of Money Laundering Act.

3. Allegation against the petitioner is that be being

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the close associate of main accused Arvind Yadav @ Ashok @ Randhir Kumar Yadav @ Avinash Jee @ Neta Jee @ Lamboo @ Chasmali has acquired huge assets in the name of his family members and relative out of the proceeds of crime.

4. Learned Senior counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case only on the ground that the petitioner is cousin brother-in-law of he main accused namely Ashok Yadav @ Arvind Yadav, who is being treated to be an extremist. He further submits that as per allegation in the F.I.R. that the petitioner is an associate of co-accused Ashok Yadav @ Arvind Yadav acquired huge assets in the name of his family members and relatives out of proceeds crime so generated through their various illegal activities. Specific allegation against the petitioner is that 0n 10.05.2018 he had purchased land in the name of his mother Nunwati Devi worth of Rs. 6,43,000/- (Six Lacs and Forty Three Thousand). It is further alleged that he also purchased TATA 407 Truck from Shri Devdutt for Rs. 11,00,000/- (Eleven lacs) and another Truck purchased in February, 2016 for Rs. 21,30,000/- (Twenty One Lacs and Thirty Thousand), Rs. 2,30,000/- (Two Lacs and thirty Thousand) was paid in cash, balance amount of Rs. 19,00,000/-

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(Nineteen Lacs) were financed by TATA Motor Financial Company. During the year 2014-18, the aforesaid money has been spent for working properties without any source of income. He further submits that the petitioner is an an accused in any case in which their allegation of extortion or money or obtaining of any money through any crime. As per as the aforesaid allegation is concerned, the allegation against the petitioner is in three folds; (i) purchase of land in the name of the mother (ii) purchased truck and (iii) purchased TATA Truck 407. With respect to first allegation, learned Senior counsel for the petitioner submits that the mother of the petitioner has purchased land with her own income and savings. With respect to the purchase of Trucks in question, the major portion was financed by TATA Finance Company. The petitioner has spent only Rs. 2,30,000/- (Two Lacs and Thirty Thousand) as cash.

5. Learned Senior counsel for the petitioner further submits that the petitioner has not earned any money from commitment of any crime nor there is any material to suggest that the petitioner has earned money through the crime and hence the allegation do not constitute to make any offence under the Act. He further submits that the petitioner is in custody since 06.04.2022.

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6. Learned counsel for the Union of India, on the other hand, vehemently opposed the prayer for bail of the petitioner, and submits that the petitioner is cousin brother-in-law of the main accused namely Ashok Yadav @ Arvind Yadav and the petitioner is one of his associates. Investigation under PMLA reveals that Nunwati Devi, who is mother of the petitioner has acquired immovable property vide sale deed no. 2128 dated 10.05.2018 registered in the District Sub-Registry Office, Chakai, Jamui or worth Rs. 6,43,400/- (Six Lacs Forty Three Thousand and Four Hundred). The mode of payment of consideration money of said properties is in cash and the analysis of Bank Account statement of account number of the petitioner held with Bank of India reveals that credit has been built up by cash deposits in the said savings account. The petitioner has filed his income tax return only for the assessment year 2018-2019 showing his total income of Rs. 3,02,910/- (Three Lacs Two Thousand and Nine Hundred Ten) and his monthly income from the financial year 2005-06 to January, 2014 as Rs. 15,000/- (Fifteen Thousand) to Rs. 20,000/- (Twenty Thousand) from driving the Truck. However, no return of income has been filed during this period and his monthly income from February, 2014 onward as shown is Rs. 1,00,000/-

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(One lac) to Rs. 1,10,000/- (One Lac and Ten Thousand) from transport business from his own Truck. He had filed his return of income only for the assessment year 2018-2019 showing his total income of Rs. 3,02,910/- (Three Lacs and Two Thousand Nine Hundred Ten). The income tax of return of the petitioner clearly establishes that to conceal his ill-gotten money in the grab of monthly income from his Truck and in this way the petitioner has tried to dishonestly inflate his income. The petitioner has made total payment of Rs. 2,40,000/- (Two lacs and Forty Thousand) through bank accounts and payment of rest amount Rs. 4,03,400/- (Four Lacs and Three Thousand and Four Hundred) in cash.

7. With respect to the TATA-407/31 bearing Registration No. WB39A 7429 has been obtained. The said Truck was purchased from Shri Devdatt for Rs. 11,00,000/- (Eleven Lacs). During statement recorded under Sections 50(2) & (3) of PMLA on 26.09.2018 and 03.10.2018, the petitioner has stated that he has made total payment of Rs. 11,00,000/- (Eleven Lacs) in cash on July, 2016 and rest amount i.e. 7,00,000/- (Seven Lacs) in different instalments till March, 2018.

8. Expenditure towards purchase of Truck and

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construction of house is not supported by any documents. The petitioner has not filed any return of income during the said period. He claimed for earning monthly Rs. 1,00,000/- (One Lac) to Rs. 1,10,000/- (One Lacs and Ten Thousand) is nothing but he tried to conceal his ill-gotten money generated from the criminal activity by the petitioner along with main accused Ashok Yadav @ Arvind Yadav.

9. The Provisional Attachment Order No. 05/2020 for attachment of movable/immovable properties of Rs. 1,14,86, 611?- (One Crore Fourteen Lakhs Eighty Six Thousand Six Hundred Eleven) was issued on 21.02.2020. The Original Complaint 1277 of 2020 was filed before Hon'ble Adjudicating Authority, New Delhi. Vide order dated 07.06.2021, Hon'ble Adjudicating Authority, New Delhi has confirmed the provisional attachment order and it appears from the aforesaid facts that the petitioner has been directly involved in the criminal activity and generated illegal money from the criminal activity and thereafter the petitioner has tried to conceal his ill-gotten money by money laundering in the grab of monthly income from his transport business. He further submits that the petitioner may enlarge the petitioner on bail after framing of charge.

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10. In view of the aforesaid facts and circumstances of the case that the petitioner is close relative of the main co-accused Ashok Yadav @ Arvind Yadav and there is no material to suggest that the petitioner has received the money from the main accused and the allegation as alleged in the Complaint/F.I.R. do not constitute to make any offence under the PMLA Act, for the purpose of granting bail let the petitioner, above named, be released on bail, **after framing of charge**, on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, Patna in connection with Special Trial (PMLA) No. 02 of 2021 arising out of ECIR No. PTZO/05/2018, subject to the following conditions :-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall

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verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

**(Rajesh Kumar Verma, J)**

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