IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30470 of 2022

Arising Out of PS. Case No.-4 Year-2018 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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SANT KUMAR SINHA S/o Late Anil Chandra Sinha R/o- Indraprastha Colony, Lichi Bagan, Ishakchak, P.S.- Ishakchak, District- Bhagalpur.

... ... Petitioner/s

Versus

1. The union Of India through the Director, Directorate of Enforcement, Government of India, New Delhi New Delhi.
2. The Director, Directorate of Enforcement, Government of India, New Delhi. Bihar
3. The Assistant Director, Directorate of Enforcement, Government of India 1 Floor, Chandpur Place, Bank Road, Gandhi Maidan, Patna, Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Ashok Kumar Singh, Advocate
For the Opposite Party/s :	Mr. K.N. Singh (A.S.G.)
	Mr. Manoj Kumar Singh, CGC
	Mr. Devansh Shankar Singh, JC to ASG
	Mr. Sriram Krishna, Adv.
	Mr. Ankit Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
Date : 21-06-2023

1. Heard learned counsel for the petitioner and the learned Additional Solicitor General appearing for the Union of India.

2. The petitioner seeks bail in connection with Special Trial No. (PMLA) 05 of 2021, arising out of ECIR No. PTZO/04/2018, dated 24.05.2018, registered for the offence punishable under Section 4 of the Prevention of Money-Laundering Act, 2002 (hereinafter referred to as 'the PMLA').

3. Several First Information Reports (for brevity 'FIR') were lodged in connection with fraudulent

transfers /misappropriation of huge sums of government money under a conspiracy between government officials and employees, Bank officials and employees, office bearers and members of Srijan Mahila Vikash Sahyog Samiti Limited (for brevity *'SMVSSL'*) and other accused persons, popularly known as "Srijan Scam". The petitioner is made an accused in following such cases:

i. Special Case No. 2/19, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/13(1)(c)(d) of PC Act (Bail).

ii. Special Case No. 8/19, U/S 1208/409/420/467/468/471 of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of PC Act (Bail).

iii. Special Case No.2/20 U/S 120B/409/420/467/468/471/477A of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of PC Act (Bail).

iv. Special Case No. 9/19, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/13(1)(c) & (d) of P C Act(Bail).

v. Special Case No.7/19, U/S 120B/409/420/467/468/471 of IPC & Sections 13(2)/13(1)(c) & 13(1)(d) of PC Act (Bail)

vi. Special Case No. 1/20, U/S 120B/409/420 of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of PC Act(Bail).

vii. Special Case No.4/18, U/S 120B/409/420 of IPC & Sections 13(2)/13(1)(c) & 13(1)(d) of PC Act(Bail).

viii. Special Case No. 4/20, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of PC Act (Bail).

ix. Special Case No.7/20, U/S 120B/409/420 of IPC & sections 13(2)/13(1)(c) & (d) of P C Act (Bail).

x. Special Case No. 9/20, U/S 120B/409/420 of 13(2)/13(1)(c) & (d) of PC Act(Bail) IPC & sections

xi. Special Case No.10/20, U/S 120B/409/420 of IPC & sections 13(2)/13(1)(c) & (d) of P C Act (Bail).

xii. Special Case No. 8/20, U/S 120B/409/420 of IPC & sections 13(2)/13(1)(c) & (d) of P C Act

xiii. Special Case No. 12/20, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/13(1)(d) of P C Act

xiv. Special Case No. 13/20, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of PC Act

xv. Special Case No.1/21, U/S 120B/409/467/468/471 of IPC & sections 13(2)/13(1)(c) & 13(1)(d) of P C Act (Bail).

xvi. Special Case No.5/19, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/ 13(1)(d) of P C Act (Bail).

xvii. Special Case No. 2/2021, U/S 120B/409/420/467/468/471 of IPC & sections 13(2)/ 13(1)(d) of PC Act(Bail)

4. The offences being investigated were found to be scheduled offences, as per the provisions of PMLA and, accordingly, investigation was taken up by the Enforcement Directorate (ED), under the provisions of the PMLA for ascertaining the proceeds of crime and for filing complaints. The ECIR No. PTZO/04/2018, thus, came to be recorded against the *SMVSSL* and its office bearers, government officials and employees, bank officials and employees and others. Investigations revealed huge sums siphoned from the Government treasury and transferred to the Bank account of *SMVSSL*. Government officials were also found involved.

5. The petitioner, as per allegation, was the then Clerk in Bank of Baroda. He is close associate of late Manorma Devi,

who is stated to be the prime accused at the centre of the entire scam, being Secretary of *SMVSSL* since its inception till her death on 13.02.2017. The cheating and fraudulent misappropriation of the Government funds by Manorma Devi was in collusion with several Government officials, bank officials and other individuals which includes the instant petitioner also. About 25 lakh rupees was deposited from *SMVSSL* towards procurement of flat in Gardenia Glamour, Phase-II project at Gaziabad in the name of petitioner's wife, namely, Ranjana Sinha. One flat was purchased at Krishna Dham Apartment at Bhagalpur. The scrutiny of the sale-deed in support of this procurement revealed that the same was purchased for 23 lakhs rupees. Several deposits in her account running in lakhs of rupees have also emerged.

6. The flat was alleged to have been acquired out of the proceeds of crime and was attached by a provisional attachment order no. 04 of 2021 dated 30-06-2021.

7. The proceeds of crime have been invested by petitioner in acquiring property in the name of his wife so as to integrate the amount, being proceeds of crime in the main stream economy. The petitioner has assisted late Manorma Devi in money laundering and, therefore, he cannot deny his liability

for the crime under Section 3 of the PMLA.

8. Thereafter, Original Complaint No. 1498 of 2021 was filed before the Adjudicating Authority on 26/07/2021 for confirmation of the provisional attachment order in compliance with the principles of natural justice, inherent under Section 8 (1) of the PMLA. The same was subsequently confirmed by the Adjudicating Authority. The prosecution complaint vide Special Case No. 5 of 2021 was then filed before the Special Court on 04/10/2021, in which, cognizance has been taken on 04/10/2021 itself. The petitioner was, at that point of time, already in custody in a predicate offence.

9. In this case, he is in custody since 29/10/2021**.** His prayer for bail was rejected by the Special Judge on 09/05/2022. He is, thus, before this Court.

10. Learned counsel for the petitioner submits that the flat in Krishna Dham was purchased on request of late Manorma Devi. The original deed of this flat and keys were also with late Manorma Devi. The petitioner had no paper regarding the said purchase. The petitioner has falsely been implicated in this case. The petitioner retired from post of Clerk of the Bank of Barodra on 31.12.2015. He has had an unblemished service career of 33 years. About 2 years after his retirement, he has been made

accused in the cases lodged regarding embezzlement of misappropriation of funds, known as *Srijan* Scam. The petitioner is now a senior citizen aged about 69 years old and is also a chronic heart patient. Petitioner has been examined under Section 50(2) and (3) of PMLA. There is no flight risk.

11. Learned Additional Solicitor General submits that there is sufficient material as recorded in the complaint to show the petitioner's involvement. The petitioner, a salaried employee, had acquired several real estate properties, namely, flat at Gardenia Glamour Phase-II, Gaziabad, Krishana Dham Apartment at Bhagalpur and has used his wife's and daughter's account for deposits of proceeds of crime with the oblique motive of channelizing the said amount in the main stream economy. The petitioner had knowingly indulged in acquisition, possession, use and concealment of proceeds of crime for projecting or claiming it to be untainted property. Having committed the offence under Section 3 of the PMLA, the petitioner's prayer for bail is bared by Section 45(1)(ii) of the PMLA.

12. On consideration of rival submissions, this Court finds that material has been placed on record in the complaint case indicating huge transactions for acquisition of real estate properties. There is transfer of funds through RTGS from the

account of late Manorma Devi, towards procurement of some of the land and properties. The petitioner is also an accused in 17 cases, which together constitute the Srijan Scam.

13. In view of existence of material in the complaint, this Court would find that there is no reasonable ground to believe that the petitioner is not guilty of offence as alleged in the complaint, though the Court is conscious of the fact that materials are yet to be considered at the trial. The instant case, therefore, does not satisfy the first test as per Section 45 of the PMLA for lifting the bar to grant of bail.

14. Insofar as the second test regarding propensity of the petitioner to commit any offence while on bail, this Court would observe that it is trite law that such propensity can be ascertained only with reference to the past conduct, antecedents as well as nature of material emerging in the course of investigation. In view of the petitioner's antecedent and material in the complaint, as noted above, there is no scope for this Court to record a satisfaction that the petitioner is not likely to commit any offence while on bail. The existence of 17 number of cases against the petitioner since before, and on examination of material emerged in the complaint, this Court would also observe that there is no grounds for concluding that

the petitioner is not likely to commit any offence on bail.

15. Having regard to decision of Hon'ble Apex Court in the case of ***Vijay Madanlal Choudhary and Others versus Union of India and Others*** reported in ***2022 SCC Online SC 929,*** upholding the requirements of satisfying the twin test for lifting statutory bar to grant bail under Section 45 of PMLA, this Court would find that the petitioner's case having failed on the twin test, the prayer for bail is fit to be rejected.

16. This Court is, therefore, inclined to reject the petitioner's prayer for bail, for the present. The Court's observations, however, shall not be considered by the trial court at the trial.

17. Petitioner's prayer for bail is rejected.

(Madhuresh Prasad, J)

sumit/shashank-

AFR/NAFR	NAFR
CAV DATE	NA
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