

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66265 of 2023

Arising Out of PS. Case No.-2 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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SHYAM SUNDER BAJAJ son of Late Jugal Kishore Bajaj R/o- Karnika Apt.
20, Rabindra Sarani Bally Howrah W.B and Proprietor of M/S Shivam
Agency 55/B, Strand Road Kolkata Ps- Jora Bagan Dist- Kolkata W.B

... .. Petitioner.

Versus

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

... .. Opposite Party.

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Appearance :

For the Petitioner	:	Mr. Y.V. Giri, Senior Advocate
		Mr. Ravindra Kumar Singh, Advocate
For the Opposite Party	:	Mr. Dr. Krishna Nandan Singh, ASG
		Mr. Manoj Kumar Singh, Advocate
		Mr. Ankit Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

- 4 08.12.2023 Heard Mr. Y.V. Giri, Learned senior counsel for the

petitioner assisted by Mr. Ravindra Kumar Singh, learned

Advocate and Dr. K.N. Singh, learned ASG assisted by Mr.

Manoj Kumar Singh, learned Advocate for the Union of India.
2. This is repeat attempt of the petitioner, whose earlier prayer
for anticipatory bail was rejected by this Court vide a detailed
order dated 11.03.2022 passed in Cr. Misc. No.64175 of 2019.
After almost one and half years, the petitioner has again



renewed his prayer as he apprehends his arrest in connection with 1st supplementary complaint case in Special Trial (PMLA) 11 of 2018 vide ECIR No. PTZO/05/2016 dated 26.12.2016, leading to institution of Complaint No.2 of 2018 dated 18.07.2018) instituted under Section 45 of the Prevention of Money Laundering Act, 2002 (hereinafter in short as 'PMLA') for commission of the offence under Section 3 which is punishable under Section 4 of PMLA Act.

3. During course of hearing of this application, in response to the query of the Court that what is the new ground for preferring this second anticipatory bail application, learned senior counsel for the petitioner submitted that one similarly situated co-accused, namely, Pawan Kumar Jain, has been granted protection against arrest during the pendency of the trial vide order dated May 18, 2023 passed in Special Leave to Appeal (Crl.) No.5485/2023.

4. Dr. K.N. Singh, learned ASG vehemently opposing the prayer for anticipatory bail of petitioner submitted that unless and until there is changed circumstance in the prosecution, the second anticipatory bail application is not maintainable. He has contended that sufficient evidence is available against the petitioner for his implication in the case. He further submitted



that due to non-appearance/cooperation of the petitioner, trial of this case is not proceeding and even the charge has not been framed against the petitioner. He further submitted that the accusation against the petitioner is well founded and this application is liable to be rejected.

5. It is not out of place to mention here that the second anticipatory bail application of the said Pawan Kumar Jain was rejected by this Court on 17.03.2023 passed in Cr. Misc. No.64266 of 2022 and his first anticipatory bail application was rejected vide order dated 16.07.2019 passed in Cr. Misc. No.5704 of 2019.

6. It pertinent to state here that vide order dated 11.03.2022 passed in Cr. Misc. No.64175 of 2019, this Court after noticing the facts of the case and having considered the rival submissions of the parties, rejected the prayer for anticipatory bail with detailed reasoning, which need not to be reiterated here.

7. With regard to the new ground, I can only say that the similarly situated co-accused was not granted bail by this Court, rather by the Hon'ble Supreme Court. The question, whether to grant bail or not is dependent on variety of circumstances, the cumulative effect thereof requires



consideration, any single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. In cases of economic offences involving blatant corruption at the higher rungs of the executive and political power, the discretion under Section 438 Cr.P.C. should be exercised sparingly and not in mechanical manner. The stage is premature reach to a conclusion and assess the blatantness of the corruption while considering the prayer for anticipatory bail. It goes without saying that granting of bail lies within the discretion of the Court. The granting or denial is regulated, to a large extent, considering the peculiar facts and circumstances of a particular case. I may gainfully note what had been observed by the Hon'ble Supreme Court as far back as in the year 1987 in case of **State of Gujarat vs. Mohanlal Jitmalji Porwal and Another** (1987) 2 SCC 364, the relevant part whereof is quoted here-under:

“.....5.... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with



an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest...”

8. I may also refer to the judgment passed in S.L.P. (Crl.) No.9431 of 2023 in the case of Tarun Kumar Vs. Assistant Directorate of Enforcement, and the relevant part whereof is reproduced here-under:

“23. With the advancement of technology and Artificial Intelligence, the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigating agencies to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein. Lot of minute exercise is expected to be undertaken by the Investigating Agency to see that no innocent person is wrongly booked and that no culprit



escapes from the clutches of the law.

When the detention of the accused is continued by the Court, the Courts are also expected to conclude the trials within a reasonable time, further ensuring the right of speedy trial guaranteed by Article-21 of the Constitution.”

9. This Court may also not lose sight of the fact that despite rejection of his prayer for anticipatory bail by order dated 11.03.2022 passed in Cr. Misc. No.64175 of 2019, this repeat prayer has been made before this Court after almost one and half years, whereas it has been categorically submitted by learned ASG that due to non participation/cooperation by the petitioner even the charge has yet not been framed and the proceedings before the learned court below is lying stand still, which clearly reflects the intention and conduct of the petitioner in the present matter. If the petitioner was so *bona fide* in respecting the rule of law, it was incumbent upon him to surrender before the Court of law when his earlier application was rejected but he did nothing and unnecessarily the trial of this case is hampering.

10. For the reasons afore-stated and the materials available on record before this Court, commands this Court to reject the



prayer for anticipatory bail of the petitioner once again.

11. The petitioner is directed to surrender before the learned Court below within two weeks from today and seek regular bail and the learned Court below would pass order in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J.)

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