

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23605 of 2024

Arising Out of PS. Case No.-3 Year-2018 Thana- E.C.I.R (GOVERNMENT OFFICIAL)
District- Patna

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Saryu Yadav Son of Nanhu Yadav Resident of vill.-Mahsu, P.S.-Amba, Distt.-
Aurangabad, Bihar-824111

... .. Petitioner/s

Versus

Enforcement Directorate Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr.Advocate Mrs. Shashi Priya Ms.Supragya
For the Opposite Party/s	:	Mr.(Dr.) K.N. Singh(A.S.G.) Mr.Manoj Kumar Singh, Spl P.P.(ED) Mr. Ankit kUmar Singh Mr.Shivaditya Dhari Sinha, AC to ASC

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

8 24-09-2024 Heard the learned counsel for parties.

2. This is an application for regular bail on behalf of the petitioner for the offences alleged under Section 45 of the Prevention of Money Laundering Act, 2002 (for short ‘the PMLA’) for commission of offence under Section 3, punishable under Section 4 of ‘the PMLA’ (as amended) in connection with ECIR No. PTZO/03/2018(Special Trial (PMLA) Case No.01 of 2019.

3. The prosecution case, in brief, is that 46 FIRs/charge-sheets were registered against co-accused Binay Yadav @ Vinay Yadav in different police stations. The



Enforcement Directorate, Zonal Office, Patna recorded ECIR No. PTZO/03/2018 dated 29.3.2018, and initiated investigation under the provisions of 'the PMLA' against Binay Yadav and others.

4. According to the complaint petition, Binay Yadav is an active member of the banned CPI (Maoist) group and total 46 cases have been registered against him under different Sections of the Indian Penal Code, Arms Act, Unlawful Activities (Prevention) Act, and Explosive Substances Act, 1959 etc. in various police stations of Gaya and Aurangabad. Binay Yadav is alleged to be involved in threatening and killing of innocent people and collected levy, and proceeds of crime have been utilized for acquisition of various movable and immovable properties in the name of his wife Srimati Devi, his daughters Pooja Kumari and Poonam Kumari, his *Samdhi* (the petitioner) and his son-in-law, Prem Kumar. The petitioner is *Samadhi* of Binay Yadav and there is allegation against him that he acquired six vehicle valued at Rs. 46, 21,449/- and two plots valued at Rs. 80,000/-. Further allegation is that total cash deposits in his bank account and in the account of his son Prem Kumar are Rs. 40,45,700/- from 2014 onwards.

5. The learned Senior Counsel for the petitioner has



submitted that there is nothing against the petitioner, which shows that the petitioner's assets disclosed by the Enforcement Directorate are procured from the proceeds of crime. On the basis of the confessional statement of the petitioner recorded under Section 50 of 'the PMLA', he has been made accused. Unless otherwise it is established that the assets belonging to the petitioner is derived from the proceeds of crime, he cannot be put behind bars. Learned counsel has also submitted that the assets of the petitioner and its origin have been described in para-8, 9, 10, 13, 14 and 17 of the bail application. The petitioner has ancestral lands of five *bighas* and 11 *kathas*, which are fertile lands and can be cultivated thrice in a year and he deposited money from that agricultural properties till 2017. It has been submitted further that prior to marriage of the son of the petitioner with daughter of Binay Kumar, the petitioner had the deposit in his bank account Rs. 10 lacs in the year 2010. In 2006, the petitioner had purchased a second hand mini bus bearing Registration No. JH12 B 3030 and he sold it in the year 2007 for consideration money of Rs. 1 lakh. The petitioner purchased a second hand mini bus in the year 2007 bearing Registration No. BR 26 A 9969, which was used for travelling and business and he sold that bus in the year 2007 itself for



consideration money of Rs. 2,89,000/-. Thereafter he purchased again a second hand mini bus bearing Registration No. BR-12-A-9501 and after using it for business purpose it was sold in the year 2010 for consideration money of Rs.90,000/- Similarly, the petitioner has explained the origin of his assets in para-13, 14, 15, 16, 17, 18, 19 and 20 of the bail petition as well. The learned senior counsel has submitted that the petitioner is relative of Binay Kumar, who is the main accused, and it was the only reason that he has falsely been implicated in this case. He is a person of clean antecedents and not a single case, even of a petty nature, is pending against him. He is under incarceration since 18.08.2023 without any fault of his.

6. On the other hand, the learned counsel for the Enforcement Directorate has opposed the prayer for bail by submitting that under the provisions of Section 24 of 'the PMLA', it is burden on the petitioner to prove his innocence and explain his assets. He has also submitted that the petitioner has rendered his confessional statement and the confessional statement recorded under Section 50 of 'the PMLA' is admissible in evidence, to which the learned senior counsel for the petitioner replied that the confessional statement is without any basis, and it cannot be relied upon, as it is inadmissible in



the eyes of law.

7. There is nothing on the record to show that the assets procured by the petitioner are the proceeds of crime. The petitioner has explained the origin of his assets in his bail application. He is a person of clean and fair antecedents and merely because he is the owner of some properties, it cannot be assumed that he is involved in the offences of money laundering.

8. Considering the above facts and circumstances, especially the clean antecedents, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, PMLA, Patna in connection with Special Trial (PMLA) Case No. 01 of 2019, arising out of ECIR No. PTZO/03/2018, subject to the condition that the petitioner shall cooperate in the disposal of trial and make himself available as and when required by the concerned court.

(Nawneet Kumar Pandey, J)

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