

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.34015 of 2024**

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

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BABAN SINGH S/O LATE GAURI SHANKAR R/O GAURI NIWAS,  
LANE NO.-8, JAI PRAKASH NAGAR, NEAR DENOBILLI SCHOOL, P.S-  
POLICE LINE DHANBAD, JHARKHAND- 826001.

... .. Petitioner/s

Versus

UNION OF INDIA THROUGH ENFORCEMENT DIRECTORATE  
GOVERNMENT OF INDIA BANK ROAD, CHANDPURA PLACE,  
PATNA- 800001.

... .. Opposite Party/s

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with  
**CRIMINAL MISCELLANEOUS No. 34485 of 2024**

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

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Mithilesh Kumar Singh Son of Late Gauri Singh R/o Casa Celeste, House  
No.- 25, Gauri Kutir, Behind IIT-JEE Medical Coaching Dhaiya Main Road,  
Near Memoka More, P.S.- Barwada, Dhanbad, Jharkhand 826004

... .. Petitioner/s

Versus

Union of India Through Enforcement Directorate Government of India, Bank  
Road, Chandpura Place, BIHAR

... .. Opposite Party/s

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with  
**CRIMINAL MISCELLANEOUS No. 34951 of 2024**

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

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SURENDRA KUMAR JINDAL SON OF LATE BABU RAM JINDAL  
RESIDENT OF HOUSE NO. 5A SURAMA VILLA, CHANCHANI  
COLONY, DHAIYA P.S. BARWADA, DHANBAD, JHARKHAND - 826004

... .. Petitioner/s

Versus

UNION OF INDIA THROUGH ENFORCEMENT DIRECTORATE, GOVT.  
OF INDA, BANK ROAD, CHANDPURA PLACE, PATNA-1 BIHAR

... .. Opposite Party/s

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with  
**CRIMINAL MISCELLANEOUS No. 43608 of 2024**

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

Krishna Mohan Singh Son of Late Parmeshwar Singh R/o Gram Anandnagar  
New Shivpur, P.S.- Town Thana Arrah, District - Bhojpur Arrah, Bihar -  
802301

... .. Petitioner/s

Versus

Union of India Through Enforcement Directorate Govt. of India, Bank Road,  
Chandpura Place, Patna 800001, Bihar.

... .. Opposite Party/s

with  
**CRIMINAL MISCELLANEOUS No. 49347 of 2024**

Arising Out of PS. Case No.-14 Year-2023 Thana- E.C.I.R (GOVERNMENT OFFICIAL)  
District- Patna

SUBHASH PRASAD YADAV SON OF PREMADHAR RAY RESIDENT  
OF VILLAGE - HETANPUR, P.O. - MADHOPUR, KHAGAUL, P.S. -  
SHAHPUR, DISTRICT - PATNA

... .. Petitioner/s

Versus

THE UNION OF INDIA, THROUGH THE ASSISTANT DIRECTOR,  
ENFORCEMENT DIRECTORATE, PATNA ZONAL OFFICE BIHAR

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 34015 of 2024)

|                            |   |                                                                                                                                                                                                        |
|----------------------------|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Anshuman Sinha, Adv.<br>Mr. Md. Nadim Seraj, Adv.<br>Mr. Vijay Kr. Pandey, Adv.<br>Mr. Prakhar Prakash, Adv.<br>Mr. Shailesh Kumar, Adv.<br>Mr. Ali M. Ahmad, Adv.                                 |
| For the Opposite Party/s : |   | Mr. Krishna Nandan Singh, Sr. Advocate (A.S.G.)<br>Mr. Manoj Kumar Singh, Advocate for E.D.<br>Mr. Shivaditya D. Sinha, (AC to A.S.G)<br>Mr. Ankit Kumar Singh, Advocate<br>Mr. Sanjiv Kumar, Advocate |

(In CRIMINAL MISCELLANEOUS No. 34485 of 2024)

|                            |   |                                                                                                                                                                     |
|----------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Anshuman Sinha, Adv.<br>Mr.Md. Nadim Seraj, Adv.                                                                                                                |
| For the Opposite Party/s : |   | Mr. Krishna Nandan Singh, Sr. Advocate (A.S.G.)<br>Mr. Manoj Kumar Singh, Advocate for E.D.<br>Mr. Shivaditya D. Sinha, Advocate<br>Mr. Ankit Kumar Singh, Advocate |



Mr. Sanjiv Kumar, Advocate  
(In CRIMINAL MISCELLANEOUS No. 34951 of 2024)  
For the Petitioner/s : Mr. Anshuman Sinha, Adv.  
Mr.Nadim Seraj, Adv.  
For the Opposite Party/s : Mr. Krishna Nandan Singh, Sr. Advocate (A.S.G.)  
Mr. Manoj Kumar Singh, Advocate for E.D.  
Mr. Shivaditya D. Sinha, Advocate  
Mr. Ankit Kumar Singh, Advocate  
Mr. Sanjiv Kumar, Advocate  
(In CRIMINAL MISCELLANEOUS No. 43608 of 2024)  
For the Petitioner/s : Mr. Anshuman Sinha, Adv.  
Mr.Shailesh Kumar, Adv.  
For the Opposite Party/s : Mr. Krishna Nandan Singh, Sr. Advocate (A.S.G.)  
Mr. Manoj Kumar Singh, Advocate for E.D.  
Mr. Shivaditya D. Sinha, Advocate  
Mr. Ankit Kumar Singh, Advocate  
Mr. Sanjiv Kumar, Advocate  
(In CRIMINAL MISCELLANEOUS No. 49347 of 2024)  
For the Petitioner/s : Mr.Suraj Samdarshi, Adv.  
For the Opposite Party/s : Mr. Krishna Nandan Singh, Sr. Advocate (A.S.G.)  
Mr. Manoj Kumar Singh, Advocate for E.D.  
Mr. Shivaditya D. Sinha, Advocate  
Mr. Ankit Kumar Singh, Advocate  
Mr. Sanjiv Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

15    29-11-2024                      Heard Mr. Anshuman Sinha, learned counsel for the  
  
petitioners in Criminal Miscellaneous No. 34015 of 2024,  
  
Criminal Miscellaneous No. 34485 of 2024, Criminal  
  
Miscellaneous No. 34951 of 2024 and Criminal Miscellaneous  
  
No. 43608 of 2024, Mr. Suraj Samdarshi, learned counsel for  
  
the petitioner in Criminal Miscellaneous No. 49347 of 2024  
  
and Mr. Dr. K. N. Singh, learned A.S.G. assisted by Mr. Manoj  
  
Kumar Singh, learned Advocate for the Union of India through  
  
the Enforcement Directorate in all the cases aforementioned in  
  
continuation of hearing going on dated 20/08/2024,  
  
29/09/2024, 25/09/2024, 27/09/2024, 04/10/2024, 05/10/2024,



13/11/2024, 22/11/2024, 26/11/2024 and 28/11/2024.

2. The petitioners of Criminal Miscellaneous No.34015 of 2024, Criminal Miscellaneous No. 34485 of 2024, Criminal Miscellaneous No. 34951 of 2024, Criminal Miscellaneous No. 43608 of 2024 and Criminal Miscellaneous No. 49347 of 2024 seek regular bail in connection with Special Trial (PMLA) Case No. 08/2023 and Special Trial (PMLA) Case No. 02 of 2024 arising out of ECIR No. ECIR/PTZO/14/2023, dated 15.03.2023 registered under Sections 3 and 4 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'the PMLA').

3. Learned counsel for the petitioners have mentioned in these cases on various dates and submitted that the Company namely, Broadson Commodities Private Limited (hereinafter referred to as 'the Company') and its Directors were made accused in the present case. Petitioners of Criminal Miscellaneous No.34015 of 2024, Criminal Miscellaneous No. 34485 of 2024 and Criminal Miscellaneous No. 34951 of 2024 are the Directors of the Company whereas the petitioners of Criminal Miscellaneous No. 43608 of 2024 and Criminal Miscellaneous No. 49347 of 2024 are the former Directors of the Company. The said Company was engaged in the business



of sand mining and its sale by virtue of license obtained from the Mining Department, Government of Bihar. The arguments made by the petitioners and the Enforcement Directorate had already been discussed in the orders passed on different dates which are 20/08/2024, 29/09/2024, 25/09/2024, 27/09/2024, 04/10/2024, 05/10/2024, 13/11/2024, 22/11/2024, 26/11/2024, 28/11/2024 and 29.11.2024. Today, learned Counsel for the petitioners in the first four cases has concluded his argument and submitted that a milestone case has been decided by a Full Bench of Hon'ble Supreme Court in the case of ***Vijay Madan Lal Choudhary and Ors. Vs. Union of India & Ors.*** reported in ***AIR 2022 SC (Supp) 1283: AIR Online 2022 SC 1139***. By virtue of this case, the situation prior to ***Vijay Madan Lal Choudhary (supra)*** case and after ***Vijay Madan Lal Choudhary (supra)*** case has been completely changed. He further submits that the latest decision of Hon'ble Supreme Court rendered in the case of ***V. Senthil Balaji Vs. Deputy Director, Directorate of Enforcement*** reported in ***2024 SCC Online SC 2626 (Criminal Appeal No. 4011 of 2024)*** was subsequently followed in the case of ***Pankaj Mishra Vs. the Union of India in B.A. No. 8271 of 2024*** whereby the Hon'ble Jharkhand High Court has held that the trial for the offence of



money laundering cannot be concluded unless the trial for scheduled offence is concluded. In support of his argument, learned counsel has relied on one another judgement of Hon'ble the Supreme Court rendered in ***Special Leave to Appeal (Crl.) No. 12353/2024 ( Mahabir Prasad Rungta Vs. the Directorate of Enforcement)*** in which it has been observed that "*we make it clear that the trial for the offence under the Prevention of Money-laundering Act, 2002, shall not be concluded unless the trial in the case of predicate offence is concluded.*"

4. Learned Counsel in Criminal Miscellaneous No. 49347 of 2024 accepts the concluding remark of the learned counsel who is appearing for the initial four cases and further submitted that he is fully confident by which it becomes crystal clear that there are in total 20 different criminal cases, in which the name of the petitioners is directly or indirectly involved which are said to be the scheduled/predicate offences for the present petitioners. He submits that out of 20 cases, one case resulted in acquittal. One case is at the stage of compounding as there is a provision of compounding under Rule 56 of the relevant Mining Rule. Cognizance has been taken in the seven cases whereas in the rest 11 cases investigation has not been concluded till date, and therefore, there is no likelihood of trial



of the predicate/ scheduled offence being concluded in the near future. At the cost of repetition, he submits that it has been argued by the petitioner of Criminal Miscellaneous No. 49347 of 2024 categorically that the accused's Company had submitted GST return through its company at the tune of Rs.218 Crores and odd and in this background, the allegation of Rs.161 Crores and odd has been alleged to be the subject of money laundering may not be accepted. Such aspect has been acknowledged in order no. 10 dated 05.10.2024 by this Court on which no answer has come on behalf of the Enforcement Directorate and therefore the petitioners deserve bail and they are ready to fulfill all the conditions whatsoever shall be imposed upon them.

5. After hearing the parties, the main contention of the counsel for the petitioners is that the basis and genesis of these ECIR proceedings/complaint cases are begin by virtue of the collection of loose sheets. Therefore, these cases are not maintainable and cannot be looked into by this Court at this stage due to this reason alone. This Court is not sitting in the inherent jurisdiction and is cautious that only this aspect has to be looked into that whether bail can be granted or not ? Therefore, this question that initiation of the case by the



Enforcement Directorate on the basis of loose sheets particularly in the light of the judgement on which the petitioner relied on i.e. ***Common Cause (A Registered Society) Vs. the Union of India and Ors.*** reported in ***AIR 2017 SC 540*** shall not be taken into consideration at this level particularly at the time of consideration of bail and therefore, this Court has left this question open for the parties to challenge before the appropriate stage before the appropriate forum.

6. This Court also agrees with the different judgements cited by the learned Sr. Counsel for the Union of India which said that the scheduled /predicate offence and the offence under PMLA have different and distinct offences, and therefore, shall run differently. The question of applicability of theft of sand where the selling of sand in violation of Mining Act and Rule has been made and there is a bar created by the Minor Law has already been tested by this Court in ***Cr. W. J. C. 299 of 2022 with analogous case (M/s Aditya Multicom Pvt. Ltd with Broadson Commodities Pvt. Ltd. Vs. The State of Bihar and Ors.)***. Therefore, this question shall also not help the petitioners in any manner. This Court also agrees with the argument advanced by learned Sr. Counsel for the Union of India in the light of the judgement rendered in the case of ***Y. S.***



***Jagan Mohan Reddy Vs. Central Bureau of Investigation***

reported in (2013) 7 SCC 439 in which it has held that the economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

7. This Court also agrees with the argument advanced by learned Sr. Counsel for the Union of India that the provision of Section 45 of the PMLA creates a condition for the grant of bail to the accused of PMLA but the observations made by Hon'ble Supreme Court in the case of ***Prem Prakash Vs. Union of India through the Directorate of Enforcement (in SLP (Crl.) No.5416 of 2024)*** reported in ***MANU/SC/0943 of 2024*** whereby the Hon'ble Supreme Court has pleased to observe that where a situation has arisen that there is no likelihood of conclusion of trial within a short span, the rigors of Section 45 of the PMLA can be suitably relaxed to afford condition liberty and keeping persons behind bars for unlimited periods of time in the hope of speedy completion of trial would deprive the fundamental right of persons under Article 21 of the Constitution of India and that prolonged incarceration before



being pronounced guilty ought not to be permitted to become the punishment without trial. Relevant paragraphs 12, 13 and 14 whereof are reproduced as under :

*"12. Independently and as has been emphatically reiterated in Manish Sisodia (II) (supra) relying on Ramkripal Meena v. Enforcement Directorate (2024) 12 SCC 684 and Javed Gulam Nabi Shaikh v. State of Maharashtra, (2024) SCC Online 1693, where the accused has already been in custody for a considerable number of months and there being no likelihood of conclusion of trial within a short span, the rigours of Section 45 PMLA can be suitably relaxed to afford conditional liberty. Further, Manish Sisodia (II) (supra) reiterated the holding in Javed Gulam Nabi Sheikh (supra), that keeping persons behind the bars for unlimited periods of time in the hope of speedy completion of trial would deprive the fundamental right of persons under Article 21 of the Constitution of India and that prolonged incarceration before being pronounced guilty*



*ought not to be permitted to become the punishment without trial.*

*13. In fact, Manish Sisodia [Manish Sisodia v. Enforcement Directorate, (2024) 12 SCC 660 : 2024 SCC OnLine SC 1920] reiterated the holding in Manish Sisodia v. CBI [Manish Sisodia v. CBI, (2024) 12 SCC 691 : 2023 SCC OnLine SC 1393] wherein it was held as under : (Manish Sisodia case [Manish Sisodia v. CBI, (2024) 12 SCC 691 : 2023 SCC OnLine SC 1393] , SCC paras 34-35)*

*“34. Detention or jail before being pronounced guilty of an offence should not become punishment without trial. If the trial gets protracted despite assurances of the prosecution, and it is clear that case will not be decided within a foreseeable time, the prayer for bail may be meritorious. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic*



*Drugs and Psychotropic Substances Act, 1985, murder, cases of rape, dacoity, kidnaping for ransom, mass violence, etc. Neither is this a case where 100/1000s of depositors have been defrauded. The allegations have to be established and proven.*

*35. The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. The reason is that the constitutional mandate is the higher law, and it is the basic right of the person charged of an offence and not convicted, that he be ensured and given a speedy trial. When the trial is not proceeding for reasons not attributable to the accused, the court, unless there are good reasons, may well be guided to exercise the power to grant bail. This would be truer where the trial would take years.*

*14. It is in this background that Section 45 PMLA needs to be understood and applied.*



*Article 21 being a higher constitutional right, statutory provisions should align themselves to the said higher constitutional edict."*

8. Similarly the observation made by the Hon'ble Supreme Court in the case of **V. Senthil Balaji (supra)** is also necessary to be taken care of. Paragraph 21 whereof is reproduced as under :-

*"21. Hence, the existence of a scheduled offence is sine qua non for alleging the existence of proceeds of crime. A property derived or obtained, directly or indirectly, by a person as a result of the criminal activity relating to a scheduled offence constitutes proceeds of crime. The existence of proceeds of crime at the time of the trial of the offence under Section 3 of PMLA can be proved only if the scheduled offence is established in the prosecution of the scheduled offence. Therefore, even if the trial of the case under the PMLA proceeds, it cannot be finally decided unless the trial of scheduled offences concludes. In the facts of the case, there*



*is no possibility of the trial of the scheduled offences commencing in the near future. Therefore, we see no possibility of both trials concluding within a few years."*

9. Here, in the present case, the question of liberty recognized by the constitution under Article 21 and the question of curtailment of liberty by virtue of Section 45 of the PMLA is directly involved which has been well discussed and answered in the case of ***Prem Prakash (supra)*** and those observations have been followed by the different judgements by the various High Courts as well as the Hon'ble Supreme Court. Here in the present case, the complaint case arising out of ECIR /PTZO/14/2023 has already been concluded, after the investigation against all the petitioners on the basis of which Special Court has already taken cognizance on 10.11.2023 and 08.05.2024 and only trial has to be concluded about which the learned Sr. Counsel for the Union of India has specifically submitted that the trial shall be commenced and shall be concluded within 6-12 months but on the other hand, there are 20 different FIRs /cases said to be the predicate /scheduled offence. Out of 20 cases, in 13 cases investigation is still



pending whereas in the rest seven cases in which cognizance has been taken, the trial has not been commenced in six cases. As such, this Court is of the firm view that there is no possibility of conclusion of the trial of predicate offence within a few years.

10. In this background that the complaint / supplementary complaint filed by the Enforcement Directorate, investigation has been completed, charge sheets have been submitted, cognizance have been taken and there is no role of the accused persons left therein and particularly this Court is also cautious that if in future any supplementary complaint or investigation proceeds or further investigation proceeds, then the accused persons /petitioners must have to participate in the investigation and follow the Laws of Land as well as also, considering the period of custody, they cannot be indefinitely put behind bars as under trial till the conclusion of the trial of Schedule/predicate offences.

11. Considering the facts and circumstances of the case and in the light of the aforesaid discussions advanced by the parties, the petitioners in all the cases mentioned above are hereby granted bail on furnishing bail bonds of Rs.5,00,000/- (Rupees Five Lacks Only) each with two sureties of the like



amount each to the satisfaction of learned District and Sessions Judge, Patna cum Special Judge PMLA Act, Patna (Bihar) in connection with Complaint Case bearing Special Trial (PMLA) Case No. 08/2023 (Baban Singh, Mithilesh Kumar Singh, Surendra Kumar Jindal), Special Trial (PMLA) Case No. 02/2024 (Krishna Mohan Singh and Subhash Prasad Yadav) arising out of ECIR No. ECIR/PTZO/14/2023, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure with other following conditions as under : -

i) The petitioners shall appear before the learned Trial Court as and when the matter is taken up for hearing;

ii) the petitioners shall provide their mobile number to the officers of the Directorate of Enforcement to ascertain their whereabouts while he is on bail;

iii) the petitioners shall surrender their passport in the trial court and will not leave the country without prior permission of the learned Trial Court;

iv) the petitioners shall not try to contact, threaten or influence any of the witnesses of this case; and the petitioners shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses;



v) The trial Court will be entitled to cancel the bail in case the petitioners deliberately delay the trial of the present case.

12. The orders passed on 20.08.2024, 29.09.2024, 25.09.2024, 27.09.2024, 04.10.2024, 05.10.2024, 13.11.2024, 22.11.2024, 26.11.2024 and 28.11.2024 shall be treated as part and parcel of the present order dated 29.11.2024.

**(Dr. Anshuman, J)**

Ashwini/-

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