

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72156 of 2022

Arising Out of PS. Case No.-6 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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CHANDESHWAR PRASAD YADAV SON OF LATE DEO NANDAN
PRASAD R/O DR. N.C. GHOSE LANE, YARPUR, P.S.- GARDANIBAGH,
DIST. PATNA

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH ASSISTANT DIRECTOR,
DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA NEW
DELHI

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjiv Sharan, Advocate
For the Opposite Party/s : Mr. K.N.Singh (A.S.G)
Mr. Ankit Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

39 13-11-2024 Heard Mr. Sanjiv Sharan, learned counsel for the

petitioner and Mr. Ankit Kumar Singh representing the Union of

India.

2. The petitioner is in custody in connection with
Special Trial No. (Prevention of Money Laundering Act) 06 of
2021 for the offence punishable under section 3 of PMLA
punishable under Section 4 of the Prevention of Money
Laundering Act.

3. As per the complaint made by the Chief Vigilance
Officer-cum-Senior Deputy General Manager, Eastern Railway,
Kolkata, number of condemned wagons and released wheel sets



worth Rs. 34 crores were found missing/misappropriated and accordingly, needle of suspicion was pointed towards the loan auction purchase M/s Shree Maharani Steel, Patna, Proprietor as also the petitioner herein who at that point of time was serving as the Senior Section Engineer, Jamalpur Railway Workshop, Jamalpur. Being posted between the period 01.04.2013 to 31.03.2017. Subsequently, the Enforcement Directorate also instituted case and as during the earlier phase of enquiry/investigation, the petitioner was non-cooperative and did not produce the relevant document, he was arrested and is now in judicial custody.

4. The case of the petitioner is as follows:

(i) he was sent to look after SSE Condemnation between 7 of 16 hours on each working day and guidelines were not issued by the Officer;

(ii) That on the receipt of SRO, the wagon listed in SRO were jointly handed by him, CDMS, ISA, RPF to the purchaser for cutting;

(iii) after cutting, excluded fittings were taken from the purchaser by all above signatories;

(iv) physical availability of condemned wagon placed at Dhobi Ghat was jointly being checked by



CDMS and SSE condemnation.

(v) sale of condemned wagon was not proposed by accused-petitioner rather it was proposed by SSE/ Condemnation Cell of shop;

(vi) availability of excluded fittings of condemned wagons was jointly being inspected and recorded by all signatories i.e. ISA, CDMS, RPF/ IPF and SSE Condemnation;

(vii) holding capacity of Dhobi Ghat Siding is 40 wagons;

(viii) further, the differences of excluded fittings were due to:

(a) 94 pairs of wheels were sent to shop by SSE/ TPT rail without information to petitioner;

(b) M/S Maharani Construction was given works to lift 223 and 212 Number of wheels but the above firm when lifted the wheel set did not intimate the accused petitioner.

(ix) the placement and drawing of condemned wagon was performed by SSE TPT during night hours without the written information to the petitioner so



making of FIR without documentary proof does not arise.

However, SI, RPF and other concerned officers of AWM, WM, AMM were verbally apprised by accused petitioner;

(x) it is untrue to say that delivery of 63 non-existent condemned wagons was arranged by petitioner alone rather it was arranged by all signatories of delivery memo due to pressure from purchaser;

(xi) purchaser continued cutting of wagon on Sundays and holidays and when it came to notice of accused petitioner then subject matter was brought to the knowledge of SI of RPF;

(xii) the said amount was not earned by the accused petitioner but by his family members due to hard work;

(xiii) further the father of the accused petitioner was loco pilot and had earned a lot of money through known sources and he handed the whole wealth to this family members;

5. The opposite party has also filed counter-affidavit and they have opposed the prayer for bail and paragraph-7 of the counter-affidavit read as follows:-

7. (i) *It is submitted that an ECIR*



bearing No. PTZO/03/2020 was recorded on 28.02.2020 on the basis of CBI FIR No. RC0232018A0004 dated 09.02.2018, for investigation under the provisions of the Prevention of Money Laundering Act (PMLA), 2002 for the offence of money laundering defined under section 3 thereof. The accused persons Chandeshwar Prasad Yadav, Ex Senior Section Engineer, Eastern Railway Workshop, Jamalpur (petitioner) during the period from 01.04.2013 to 31.03.2017 and Dewesh Kumar, proprietor of M/s Shree Maharani Steel, Patna are alleged to have committed offence under Section 420 and 120B of the IPC, 1860 and section 13 (2) r/w 13 (1) (c) of PC Act, 1988 as evident in the FIR No. RC0232018A0004 dated 09.02.2018 of CBI/ACB/Patna which is also a scheduled offence under PMLA, 2002.

Further, it is submitted that a Charge Sheet No. 15/2021 dated 27.08.2021 was filed in the above mentioned FIR by the CBI/ACB/Patna against the following persons for contravention of



*section 120B r/w 409 and 420 of IPC, 1860 and
section 13 (2) r/w 13 (1) (c) of PC Act, 1988:-*

Sl. No.	Name of persons/firm
1.	Dewesh Kumar, Proprietor of M/s Shree Maharani Steel, Patna
2.	Chandeshwar Prasad Yadav, Ex Senior Section Engineer, Eastern Railway Workshop, Jamalpur (the present petitioner)

(ii) Further, investigation revealed that total 67 nos. of condemned wagons were misappropriated from Dhobi Ghat Siding, Jamalpur Railway Workshop, Jamalpur during the check period 01.04.2013 to 31.03.2017 and the value of these 67 nos. of condemned wagons along with its excluded fittings is Rs.3,07,14,767/-. Thus, the total loss occurred to the Railways due to misappropriation of these 67 nos, of condemned wagons is Rs.3,07,14,767.

(iii) It is further submitted that following nos. of excluded fittings were also misappropriated during the check period 01.04.2013 to 31.03.2017 and the nos. of these misappropriated items are as mentioned below:-



Sl. No.	Name of the Item	Total nos. of items Misappropriated
1.	Casnub Bogie	1413
2.	Wheel Sets	2959
3.	Draft Gear	1463
4.	Coupling Body	1430
5.	Yoke & Yoke Pin	1237
6.	Bolster Spring	11,107
7.	Yoke supporting Plate	1025
8.	Striker Casting	1437

The value of all these above mentioned items as per standard rate decided by Railway department is Rs. 19,08,91,174/-. Thus investigation revealed that the total loss occurred to Railways due to the misappropriation of condemned wagons and other excluded fittings during the period 01-04- 2013 to 31-03-2017 is Rs. 22,16,05,941/- (Rs. 3,07,14,767/- + Rs. 19,08,91,174/-).

6. In this case, the Coordinate Bench had called for the status report regarding the stage of the trial considering the fact that the petitioner is in custody since the year 2021. The learned Sessions Judge, Patna vide letter no. 87 dated 28.10.2024 has submitted its report which read as follows:-

No. 87/Sessions



From: Rupesh Deo

Principal District & Sessions Judge, Patna.

To,

The Assistant Registrar

High Court of Judicature at Patna.

Ref: Hon'ble Court's Order dated 21.09.2024 passed in Criminal Miscellaneous No.72156 of 2022.

Patna, Dated the 28 day of October, 2024.

Sir,

1. With due respect, in compliance of the Hon'ble Court's order dated 21.09.2024 passed in Criminal Miscellaneous No. 72156 of 2022, I am most humbly submitting report in connection with Special Trial (PMLA) No.06 of 2021 with respect to present stage of the trial, specific information regarding number of witnesses examined as yet as well as the estimated time whereunder trial is likely to be conducted, which is as follows:

(i) That at present the case is running at the stage of evidence.

(ii) That till date altogether 09 prosecution witnesses have been examined out of total 19 prosecution witnesses.

(iii) Minimum 06 months time is required to conclude the trial.

2. I most humbly request that this report may kindly be submitted before the Hon'ble Court for kind consideration.

*Yours faithfully,
Sd/-*



Principal District & Sessions Judge
Patna.
28-10-2024

7. Having gone through the facts of the case and the material on record, accusation that has come against the petitioner coupled with the fact that nine out of nineteen witnesses have already been examined till the report was submitted on 28.10.2024, the learned Session Judge has given an undertaking that the trial will be concluded in next six months, at this fag end of the trial, in the considered opinion of the Court, it would not be appropriate to enlarge the petitioner on bail.

8. It is expected that the petitioner shall cooperate so that the trial concludes within the time frame sought by the learned Sessions Judge, Patna.

9. The present bail application stands rejected.

(Rajiv Roy, J)

Adnan/-

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