27.06.2024
Item No.20
gd/ssd

WPA(P)/243/2024
MEGHA DATTA
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Atarup Banerjee,
Mr. Rajdeep Pramanik
..for the Petitioner.

Mr. Jahar Lal De,
Mr. Supratim Dhar
..for the State.

Mr. Ashoke Kumar Chakraborty, ld. ASGI,
Mr. Kumar Jyoti Tewari,
Mr. Tirtha pati Acharyya
..for the Union of India.

Mr. Sujan Chatterjee,
Mr. Subhadeep Bhattacharya
..for the Respondent No.12.

1. The petitioner in this writ petition has brought out a startling fact by which a Bangladeshi National, namely, the 12th respondent despite expiry of his VISA is continuing to reside in the State of West Bengal since 2016 and he has stated to be carrying on business and he is also filing income tax returns and in all probabilities would have obtained other records to show as if his stay in the State of West Bengal is legal and valid.

2. In this regard, the matter has already been seized of by the Security Control Organisation which has filed a report before this court dated 13.06.2024.

3. The main allegation of the petitioner is that the provisions of the PMLA Act, 2002 have to be included in the case registered against the 12th respondent.

4. The report shows that the 12th respondent who has been an accused in the said criminal case had obtained an order of interim bail from the Court of Chief Judicial Magistrate, Alipore on 06.,02.2024 where there is a direction to meet the investigating officer once in every fortnight for next four months.

5. The Security Control Organisation has filed an application for cancellation of bail under Section 439(2) of the Cr.P.C. which was heard by the Hon'ble Division Bench on 07.05.2024 and notice has directed to be served and the matter has been directed to be listed on 09.07.2024.

6. The report of the Security Control Organisation further shows that from the enquiry/investigation conducted till date the evidence regarding money laundering has not surfaced and, therefore, the provisions the PMLA Act, 2002 has not been included.

7. In any event, the investigation should proceed in an appropriate manner more particularly when the documents show that the 12th respondent is a Foreign National and his VISA had expired in the year 2016 onwards.

8. In the event prima facie materials surfaces and it is shown that there is money laundering, then it goes without saying that the matter has to be referred to the Enforcement Directorate for further investigation and to proceed in accordance with law.

9. The writ petition stands disposed of with the above observations and the Security Control Organisation shall diligently proceed with the investigation and if evidence surface with regard to money laundering the matter shall be referred to the Enforcement Directorate.

10. The report submitted by the Security Control Organisation is placed on record.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)