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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3980/2021

AMIT KOHLI ..... Petitioner

Through: Mr. Amit Anand Tiwari, Sr. Advocate with Ms. Devyani Gupta, Ms. Tanvi Anand, Mr. Chanki Kohli, Advocates

versus

DIRECTORATE OF ENFORCEMENT & ANR. ..... Respondents

Through: Mr. Ravi Prakash, CGSC with Mr. Ali Khan, Advocate for ED

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

<u>O R D E R</u>

% 17.05.2024

1. The present writ petition is filed under Articles 226 and 227 of the Constitution for setting aside the impugned notice dated 23.03.2021.

2. It is stated in the petition that the Narcotics Control Bureau (NCB) on the basis of the information conducted raids and allegedly recovered 87,480 tablets of Diazapam, Lorazepam, Alprazolam, Clonazepam, Phenobarbitone, Hydrocodone and Buprenorphine on 05.05.2008 and thereafter the petitioner and other accused persons were arrested on the allegation of involvement in illicit smuggling of Prescription drugs and selling the same to clients based in the United States. Thereafter, the Intelligence Officer of the NCB proceeded to freeze 11 immovable properties and 5 movable properties belonging to the petitioner and other accused persons and company/relatives/associates vide order no. VIII/12/DZU/2008-1613 dated

16.05.2008, Order No. VIII/12/DZU/2005-1633 dated 22.05.2008 and Order No.VIII/12/DZU/2008-1757dated 18.06.2008 under Section 68F(1) of the NDPS Act, 1985. The order passed under section 68F(1) of the NDPS Act, 1985 was confirmed by the Competent Authority under Section 68F(2) of the NDPS Act, 1985 vide order no. CA/DL/NDPS/18/08/863 dated 12.06.2008, order no. CA/DL/NDPS/19/08/885 dated 16.06.2008, and. Order no. CA/DL/NDPS/26/08/1100 dated 11.07.2008. The Narcotic Control Bureau (NCB) filed complaint bearing No. VIII/12/DLZO/2008 under sections 22/23/24/27A and 29 of the NDPS Act, against the petitioner and the other accused persons on 01.11.2008.

3. The Directorate of Enforcement (ED) vide ECIR/01/DLZO/2009 initiated proceedings against the Petitioner and the other accused persons under the Prevention of Money Laundering Act, 2002 (PMLA) on 15.07.2009. The petitioner filed an application bearing no. F.P.A-ND-47/DLI/2008/1426 before the competent authority for de-freezing of the properties of the petitioner, which were frozen under the Smugglers and Foreign Exchange Manipulators Act, 1976 (SAFEMA) vide orders dated 06.05.2008, 16.05.2008, 22.05.2008 and 18.06.2008. The said proceedings were dismissed and the said applications were stated to be rejected by the competent authority.

4. The petitioner on 16.11.2017 and 24.01.2019 was summoned by the respondent/ED and his statement was recorded under Section 50 (2) (3) of the PMLA. Thereafter, the respondent/ED on 28.08.2019, the respondent issued a Provisional Attachment Order No. 11 of 2009 in ECIR No. EClR/01/DLZO/2009 with respect to the same properties, which had already been frozen/attached under SAFEMA. The petitioner was also sent show

cause notice with the direction to appear before the Chairman, Adjudicating Authority, PMLA on 15.11.2019.

5. The learned Senior Counsel for the petitioner stated that the petitioner shall join the investigation as and when called by the Investigating Officer.

6. Mr. Ravi Prakash, Central Government Standing Counsel has referred the judgment **Amit Katyal V Directorate of Enforcement 2023 SCC OnLine Del 7119** para no.25 and 26 which was held as under:-

> **25. Thus, the investigation in the present ECIR is still continuing and the petitioner has merely been summoned to appear and submit certain documents. Even as per the own case of petitioner, he has joined investigation in the present ECIR upon being summoned by the Directorate of Enforcement on six occasions in past, between March till August 2023. Thus, no tenable grounds have been shown now as to why the impugned summons deserve to be quashed.**
> **26. Even otherwise, as held in several judicial precedents discussed above, this Court cannot throttle the investigative process at the stage of issuance of summons to the petitioner.**

7. In the present case, the petitioner is directed to join the investigation in pursuance of the impugned notice dated 23.03.2021. There is no ground to quash the impugned notice whereby the petitioner has been summoned to join the investigation. There is no merit in the present petition. Accordingly, in view of the submissions made by the learned Senior Counsel for the petitioner, the petition is accordingly disposed of.

DR. SUDHIR KUMAR JAIN, J

MAY 17, 2024/j/ak/abk