

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30505 of 2024

Arising Out of PS. Case No.-7 Year-2022 Thana- E.C.I.R (GOVERNMENT OFFICIAL) Dis-
trict- Patna

JAG NARAYAN SINGH S/O LATE NAURANG DEO SINGH R/O
NAVRANG VATIKA, NEAR HAPPY CHILD SCHOOL, POLYTECHNIC
ROAD, JHARUDIH, P.S- DHANBAD, DISTRICT- DHANBAD, JHARK-
HAND

... .. Petitioner/s

Versus

UNION OF INDIA THROUGH ASSISTANT DIRECTOR, ENFORCE-
MENT DIRECTORATE, PATNA ZONAL OFFICE BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 31322 of 2024

Arising Out of PS. Case No.-7 Year-2022 Thana- E.C.I.R (GOVERNMENT OFFICIAL) Dis-
trict- Patna

Satish Kumar Singh son of Jag Narayan Singh Village- Navrang Vatika Near
Happy Child School, Polytechnic Road, Jharudih Ps- Dhanbad Dist- Dhan-
bad, Jharkhand

... .. Petitioner/s

Versus

The Union of India through Assistant Director, Enforcement Directorate,
Patna Zonal Office Bank Roa Bank Road Chandpura Palace, Patna Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 30505 of 2024)
For the Petitioner/s : Mr. Madhav Khurana, Sr. Adv.
Mr. Madhukar Anand, Advocate
Mr. Riya Arora, Adv.
Mr. Shubham Kumar Singh, Adv.
Mr. Amit Anand, Adv.
Mr. Prabhat Kumar Singh, Adv.
Mr. Amarjeet, Adv.
For the Opposite Party/s: Mr. Dr. Krishna Nandan Singh (A.S.G)
Mr. Manoj Kumar Singh, Spl. PPED
Mr. Shivaditya Dhari Singh, Adv.
Mr. Ankit Kumar Singh, Adv.
Mr. Sanjiv Kumar, Adv.
(In CRIMINAL MISCELLANEOUS No. 31322 of 2024)
For the Petitioner/s : Mr. P.N. Shahi, Sr. Adv.
Mr. Madhukar Anand, Advocate
Mr. Amit Anand, Adv.
Mr. Prabhat Kumar Singh, Adv.
Mr. Amarjeet, Adv.



For the Opposite Party/s: Mr. Dr. K.N.Singh (Asg)
Mr. Shivaditya Dhari Sinha, Adv.
Mr. Ankit Kumar Singh, Adv.
Mr. Sanjiv Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 10-01-2025 Heard Mr. Pushkar Narayan Shahi, learned Senior Counsel for the petitioner duly assisted by Mr. Madhav Khurana, Mr. K.N. Singh, learned Additional Solicitor General of India as also Mr. Manoj Kumar Singh, learned counsel for the Enforcement Directorate.

2. The petitioners, father-son duo are in judicial custody in connection with Special Trial No. (PMLA) Case No. 09 of 2023, arising out of ECIR No. PTZO/07/2022 for the offence punishable under Section 4 of PMLA Act.

3. This order be read along with the order dated 06.12.2024 in which facts/submissions of the parties have already been narrated and read as follows:

“Heard Mr. Pushkar Narain Shahi, learned Senior counsel and Mr. Madhav Khurana, learned counsel representing the petitioner and Dr. Krishna Nandan Singh, learned Additional Solicitor General of India.

2. The petitioners are in judicial custody in connection with Special Trial No. (PMLA) Case No. 09 of 2023, arising out of



ECIR No. PTZO/07/2022 for the offence punishable under Section 4 of PMLA Act.

3. The two petitioners who are Directors of M/s Aditya Multicom Private Limited (henceforth for short 'the Company'), are in custody since 16.09.2023. The allegation that has come is/are that:

(i) they embezzled sand and sold it stealthily without issuing Challan in Form-E or Form-G Challan;

(ii) the company was also involved in sand mining during the rainy season and mining of sand beyond the capping limit fixed by the State Level Environment Impact Assessment Authority of Bihar (henceforth for short 'the SELAA') through Environmental Certificate (henceforth for short 'the EC');

(iii) it as such violated the conditions of K-Licenses Issued to it.

4. The case of the two petitioners is/are that they paid advance royalty for the period they were granted the lease i.e. from 01.01.2015 to 30.04.2021 and surrendered the same on 01.05.2021, whereafter it was taken



over by the Government. However, the first FIR came to be lodged on 16.09.2021 which followed multiple FIRs against them.

5. Thereafter, the Enforcement Directorate stepped in and the present case was lodged which followed their arrest on 16.09.2023.

6. The case of the petitioners as argued by Mr. Pushkar Narayan Shahi and Mr. Madhav Khurrana is/are that in a similar situated case related to the stake holders of M/s Broad Son, a Coordinate Bench took up the matter and vide an order dated 29.11.2024, relief was granted to the said petitioners in Cr. Misc no. 34015 of 2024 and analogous cases.

7. Let the same be kept on record.

8. The learned Counsels took this Court to Section 45 of the Prevention of Money Laundering Act, 2002 (henceforth for short 'the Act') which read as follows:-

45. Offences to be cognizable and non-bailable.

(1)



[Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence [under this Act] [Substituted by Act 20 of 2005, Section 7, for certain words (w.e.f. 1.7.2005).] shall be released on bail or on his own bond unless]

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to



commit any offence while on bail:Provided that a person, who is under the age of sixteen years or is a woman or is sick or infirm [or is accused either on his own or along with other co-accused of money-laundering a sum of less than one crore rupees] [Inserted by Finance Act, 2018 (Act No. 13 of 2018) dated 29.3.2018.], may be released on bail, if the Special Court so directs:Provided further that the Special Court shall not take cognizance of any offence punishable under section 4 except upon a complaint in writing made by(i)the Director; or(ii)any officer of the Central Government or State



Government authorised in writing in this behalf by the Central Government by a general or a special order made in this behalf by that Government. [(1-A)

*Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other provision of this Act, no police officer shall investigate into an offence under this Act unless specifically authorised, by the Central Government by a general or special order, and, subject to such conditions as may be prescribed;] [Inserted by Act 20 of 2005, Section 7 (w.e.f. 1.7.2005).] (2) The limitation on granting of bail specified in [***] [The*



words "clause (b)" omitted by Act 20 of 2005, Section 7 (w.e.f. 1.7.2005).] of sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail."

9. Learned counsels submit that though the money involved in the present case is around 22 Crores, the first Director, Jag Narayan Singh faces some health issues, they would confine their case to the fact that there is no likelihood of conclusion of Trial in the near future. In that circumstance, if granted relief, not only they shall be co-operating the Enforcement Directorate, but also be diligently appearing in trial.

10. In support of the case, the learned counsels have cited the judgments, of Vijay Madanlal Choudhary and others reported in 2022 SCC online SC 929 Union of India and



others in S.L.P. (Cr.) no. 4634 of 2014 reported in 2022 SCC online SC 929.

11. Learned Additional Solicitor General, Dr. K.N. Singh representing the Enforcement Directorate has justified the custody of the two petitioners highlighting that despite surrendering their land, they continued with the illegal activities and it came to light later that even during the rainy season, they were continuing with the sand mining. He submits that number of premises of other persons were also raided and in a raid of one Radha Charan Shah, the documents that were seized matches the documents that were seized from the petitioners.

12. It is his further submission that the two petitioners do not fit in the two criteria of 'the Act', as the amount is much more than one crore and there is nothing on record to show that both of them have any such illness deserving relief. However, on the point of delay in trial, it is his submission that no such report is on record to show that the trial is not likely to be concluded in near future.



13. Both the parties intend to file their respective short affidavits on this point.

14. It would be appropriate that even this Court directs the concerned learned Trial Court to submit a detailed report on the present stage of the case.

15. Let the parties file their respective affidavits as also the Trial Court Report comes on or before 09.01.2025 so that the matter is taken up on 10.01.2025.

16. List this case on 10.01.2025.”

4. It is the case of learned Senior Counsel representing the petitioners that in view of the recent judgment of Hon’ble Apex Court in the case of **Manish Sisodia Vs. the Directorate of Enforcement reported in 2024 SCC OnLine SC 1920** wherein it has been held that if there is delay in the trial, the case of the accused persons can be considered for extending the relief with appropriate conditions. The submission is that the petitioners are in custody since 16.09.2023 (para 1 of the petition) and prior to the present scenario where multiple cases have been lodged against them, they had no criminal antecedent.

5. Mr. Shahi, learned Senior Counsel has taken this Court to paragraphs 49 to 57 of the order passed in **Manish**



Sisodia (supra) which deals with the grant of relief if there is delay in the commencement/conclusion of the trial.

6. The aforesaid paragraph nos. 49 to 57 read as follows:

49. We find that, on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial.

50. As observed by this Court, the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

51. Recently, this Court had an occasion to consider an application for bail in the case of Javed Gulam Nabi Shaikh

v. State of Maharashtra and Another wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in the cases of Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh⁷, Shri Gurbaksh Singh Sibbia and Others v. State of Punjab⁸, Hussainara Khatoon and Others (I) v. Home Secretary, State of Bihar⁹, Union of India v. K.A. Najeeb¹⁰ and Satender Kumar Antil v. Central Bureau of Investigation and Another¹¹. The Court observed thus:

“19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the



Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

52. The Court also reproduced the observations made in Gudikanti Narasimhulu (supra), which read thus:

2024 SCC OnLine SC 1693 (1978) 1 SCC 240 : 1977 INSC 232 (1980) 2 SCC 565 : 1980 INSC 68 (1980) 1 SCC 81 : 1979 INSC 34 (2021) 3 SCC 713 : 2021 INSC 50 (2022) 10 SCC 51 : 2022 INSC 690

“10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu v. Public Prosecutor, High Court reported in (1978) 1 SCC 240. We quote:

“What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]: “I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.””

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions



thereby adding to the huge

pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception".

54. In the present case, in the ED matter as well as the CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitized documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.

55. As observed by this Court in the case of Gudikanti Narasimhulu (supra), the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.

56. In the present case, the appellant is having deep roots in the society. There is no possibility of him fleeing away from the country and not being available for facing the trial. In any case, conditions can be imposed to address the concern of the State.

57. Insofar as the apprehension given by the learned ASG regarding the possibility of tampering the evidence is concerned, it is to be noted that the case largely depends on documentary evidence which is already seized by the prosecution. As such, there is no possibility of tampering with the evidence. Insofar as the concern with regard to



influencing the witnesses is concerned, the said concern can be addressed by imposing stringent conditions upon the appellant.

(Bold inserted by this Court)

7. He has further taken this Court to the supplementary affidavit filed on 13.12.2024, particularly, paragraph nos. 6 and 7 which read as follows:

“6. That at present the aforesaid Special Trial (PMLA) Case No. 09 of 2023, is at the stage of the appearance and the next date in the said case is fixed on 23-12-2024.

7. That the Petitioner has been languishing in custody since 16.09.2023, and all together 38 witnesses have been named in the Prosecution Complaint filed against the Petitioner, who have to be examined during the course of trial. Furthermore, 28 sets of documents spanning over 5787 pages have been relied upon by the prosecution in the said Complaint and likelihood of the trial being concluded in the near future is impossible.”

8. He submits that the petitioner, **Jag Narayan Singh** in **Cr. Misc. No. 30505 of 2024** is an aged person having health issues, is not a flight risk having sufficient investment in the



country and if extended relief, shall be diligently appearing in trial without any delay.

9. So far as the other accused, **Satish Kumar Singh in Cr. Misc. No. 31322 of 2024** is concerned, though he is young, being the son of the Jag Narayan Singh stands dragged in the case and again has assets in the country, not a flight risk. Further, he too undertakes to diligently appear in trial, commencement of which is not in sight for the present.

10. Mr. Shahi concludes by submitting that the petitioners are ready to abide by any terms and conditions if granted relief.

11. Learned Additional Solicitor General, Mr. K.N. Singh representing the Govt. of India/Enforcement Directorate as also Mr. Manoj Kumar Singh though opposes the prayer for bail pointing out to the accusations made against them agrees to the fact that trial has not yet commence and thus it will take time before the same comes to an end.

12. It was in the aforesaid backdrop that on 06.12.2024, while taking note of the case, this Court wanted a report from the concerned Court regarding the stage of the trial.

13. Now, vide letter no. 02/Sessions dated 3rd January 2024 the Principal District and Sessions Judge, Patna has sent a



report and the same read as follows:

No. 02/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 06.12.24 passed in
Criminal Miscellaneous No.30505 of 2024 with Criminal
Miscellaneous No. 31322 of 2024.***

Patna, Dated the 3rd January, 2025.

Sir,

*With due respect, in compliance of the Hon'ble
Court's order dated 06.12.2024, passed in Criminal Miscellaneous
No.30505 of 2024 with Criminal Miscellaneous No. 31322 of 2024, I
am most humbly submitting report with respect to the present stage
of the trial in connection with Special Trial (PMLA) No. 09 of 2023,
which is as follows:-*

*i. There are three accused persons in the present case
namely (i) Mis Aditya Multicom Private Limited through authorized
representatives, (ii) Jag Narayan Singh and (iii) Satish Kumar Singh,
against whom Cognizance has been takern on 10.11.2023 for the
offence under Section 3 of the Prevention of Money Laundering Act
and summons has been issued to the accused No.1 i.e. a company
namely M/s Aditya Multicom Private Limited on 06.04.2024.*



ii. *The accused persons namely Jag Narayan Singh & Satish Kumar Singh are in custody since 16.09.2023, and both are Directors of accused No.1 i.e. a company namely M/s Aditya Multicom Private Limited.*

iii. *On 28.08.2024, a petition U/s 305 Cr.P.C. was moved on behalf of the company stating that company would be represented by accused No.2 Jag Narayan Singh and on 07.10.2024 reply to the same has been filed by the Enforcement Directorate.*

iv. *On 09.12.2024, a petition has been filed on behalf of accused No.3 Satish Kumar Singh stating that accused No.1 i.e. a company namely M/s Aditya Multicom Private Limited would be represented by accused No. 2 Jag Narayan Singh.*

v. *The next date in this case is fixed on 04.01.2025, for hearing on the petition u/s 305 Cr.PC. filed on behalf of M/s Aditya Multicom Private Limited.*

vi. *It is most humbly requested that this report may kindly be placed before the Hon'ble Court for kind consideration.*

Yours faithfully,

Sd/-

Principal District & Sessions Judge

Patna.

03.01.2025

14. This Court has gone through the facts of the case, the materials on record, the submissions of the parties as also the last order passed on 06.12.2024 coupled with the report submitted by the learned Principal District and Sessions Judge,



Patna. This Court has also taken note of the order passed in **Manish Sisodia (supra)** especially the paragraphs referred by the learned Senior Counsel for the petitioners where the Hon'ble Apex Court held that when there is long period of incarceration with the trial not in sight, the accused cannot be deprived of the right to speedy trial and in that background, weightage has to be given while considering the bail petitions. Though in the present case, the accusations against the petitioners is of more than one crore and thus one of the ground is not available to them, so far as the delay in commencement of trial is concerned, the same is/are valid point that has been raised by the learned Senior Counsel for the two petitioners.

14. In the present case, 38 witnesses have to be examined and as per the report dated 03.01.2025 sent by the learned Principal District Judge, Patna, the trial has not even commenced and with the voluminous documents on record, the prayer/submissions of the petitioners that they are entitled for bail and if granted relief with conditions, they undertake to diligently abide by it and further shall regularly appear in trial cannot be over-looked.

15. Taking into account all the aforesaid facts as also the order passed by Hon'ble Apex Court in **Manish Sisodia**



(supra) case, this Court is inclined to extend bail to the petitioners with conditions.

16. Let the petitioners be released on bail on furnishing bail bond of furnishing bail bond of Rs. 1,00,000/- (One Lakh) each with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Special Trial No. (PMLA) Case No. 09 of 2023, arising out of ECIR No. PTZO/07/2022 subject to the following conditions:

(i) one of the bailor should be the family members/relatives of the petitioners, who shall provide official document to show their *bona fide*;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial court itself;

(iii) the petitioners shall appear before the concerned police station every month to mark attendance till the conclusion of the trial;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;



(v) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(vi) the petitioners shall be surrendering their respective passports before the Trial Court and if needed in special cases, the Trial Court shall be the Competent Authority to consider the application and take steps for its interim release.

17. In view of the fact that the Court has extended relief to the petitioners only because the trial has not even commence as also because they have undertaken to diligently appear in trial, failure to do so, the Trial Court shall be free to take appropriate steps, if the Enforcement Directorate prefers a proper petition and after hearing the parties to pass an appropriate order.

18. The two petitions stand disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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