IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61898 of 2024

Arising Out of PS. Case No.-1 Year-2015 Thana- E.C.I.R (GOVERNMENT OFFICIAL) District- Patna

==

Saudagar Mandal S/o- Doman Mandal Village- Daulatpur P.S.- Jamui Dist- Jamui

... ... Petitioner/s

Versus

The Union of India through Assistant Director, PMLA, Directorate of Enforcement, Patna Bihar

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s	:	Mr. Gautam Kejriwal, Advocate Mr. Mohit Agarwal, Advocate Mr. Lokesh Kumar, Advocate Mr. Aakash Kumar, Advocate Mr. Vikash Khanna, Advocate
For the Opposite Party/s	:	Mr. Dr. Krishna Nandan Singh (A.S.G.I), Sr. Adv Mr. Manoj Kumar Singh Mr. Ankit Kumar Singh Mr. Shivaditya Dhari Sinha, Adv. (AC to ASG)

==

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY

CAV ORDER

4 09-04-2025 Heard Mr. Gautam Kejriwal, learned counsel for the petitioner and Mr. Dr. Krishna Nandan Singh learned Sr. Advocate (ASG-I) for the UOI.

2. The petitioner has prayed for regular bail who is in judicial custody since 22.06.2024 in a case registered for the offence punishable under section 4 of the Prevention of Money Laundering Act, 2002.

3. The case of the prosecution is on Gandhi Maidan P.S. Case No. 244/2014, and ECIR dated 30.03.2015 was registered, leading to investigation under the PMLA. The investigation revealed that Ranjeet Kumar Mandal possessed a total of 36

ATM cards from various banks. The details of the accounts and the names of the account holders related to ATM cards seized from co-accused Ranjeet Kumar Mandal were obtained from concerned banks. These ATM cards were issued on account of different banks belonging to various account holders residing in different parts of the country. It has further been alleged that the petitioner, Saudagar Mandal purchased certain immovable and movable properties as detailed out in para 3.6.1, page 51 of the Complaint. These include immovable properties worth Rs. 7,25,000/- in total by two sale deeds and second hand vehicle, worth Rs. 3,86,402/-. It is claimed that these purchases were made using the alleged proceeds of crime obtained by his son. Therefore, the petitioner is accused of acquiring, possessing, and concealing proceeds of crime, punishable under Section 3 and 4 of the PMLA Act, 2002.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. It is also submitted that the main thrust of allegation is against one Ranjeet Mandal, the son of this petitioner. The petitioner is poor and based on mere speculation, ED concluded that he is involved in connivance with his son in laundering proceeds of crime acquired by his son

for investment in the mentioned deeds and second hand vehicle. The case of the petitioner is that his source of income include farming and renting out his tractor and he owns three *bighas* of land and engages in share cropping of additional 4 *bighas* of lease land. Furthermore, the petitioner owns an Flour Meal and tractor. He used to rent out tractor to farmers for carrying out agricultural activities. He has purchased the above land from his agricultural income and he has also received a loan in cash from his nephew and father-in-law. This fact can be corroborated by his statement before ED Authority under Section 50 of the PMLA dated 19.03.2019. Petitioner is not a named accused. Further, learned counsel for the petitioner has relied on a judgment of the Hon’ble Supreme Court in the Case of ***Tarsem Lal vs. Directorate of Enforcement Jalandhar reported in 2024 Volume-7 SCC Online SC 971 page 61*** wherein the Hon’ble Apex Court has held as under:

> ***A. Economic Offences - Prevention of Honey Laundering Act, 2002-5s. 46(1), 44(1)(b), 3, 4 and 19- Offence of money laundering under Ss. 3 and 4 PMLA alleged - Accused cooperating and ED not arresting accused Special Court taking cognizance under S. 44(1)(b) PMLA, but issuing warrant because accused falling to appear pursuant to summons Cancellation of warrants, whether warranted, but with***

Imposition of conditions

-Though appellants not appearing before the Special Court even after summons were served to them in a complaint made under S. 44(1)(b) PMLA, appellants having cooperated with the investigation and Directorate of Enforcement (ED) not having arrested appellants When ED has not taken the custody of the accused during the investigation, usually, the Special Court, held, should exercise the power of cancellation of the warrant without insisting on taking the accused into custody provided an undertaking is furnished by the accused to appear regularly before the court Warrants issued against appellants post-cognizance, on facts, thus cancelled, subject to conditions stated herein

- (i)(a) The appellants should appear before the Special Court concerned within one month from today and shall file an undertaking before the Special Court that they shall regularly and punctually appear before the Spedal Court on the dates fixed unless their appearance is specifically exempted by the exercise of powers under S. 205 CrPC; and

- (i)(b) The appellants should furnish bonds for appearance in accordance with S. 88 CrPC to the satisfaction of the Special Court within one month from today

- (ii) Clarified that the warrants Issued against the appellants would stand cancelled only if they comply with said two conditions within one month from today To enable them

to do so, the warrants shall not be executed against them for a period of one month from today.
- (iii) On the failure of the appellants to appear before the Special Court to file undertakings and bonds within one month from today, it will be open for the Special Courts to issue warrants against the appellants
- (iv) The impugned orders declining to grant anticipatory ball are set aside It is unnecessary to consider the prayer for the grant of anticipatory bail After the warrants Issued against the appellants are cancelled, the apprehension that they may be arrested will not survive
- Criminal Procedure Code, 1973, Ss. 88, 89, 70, 45, 204(1)(b), 205 and 438

5. As against this, the learned counsel for the Enforcement Directorate has submitted that the petitioner has stated that he has acquired the said land from the loan obtained from his father-in-law, nephew and son but when he was asked to produce the documents relating to such loan as well as its huge payment, he said that he has repaid the money bag in cash itself and he does not have any proof of such re-payment. This shows that the petitioner concocted a false story of taking loans from various entities. Furthermore, the reports issued from ECIR reveals that two immovable properties were registered

during 2015 in the name of petitioner having value of Rs. 7,25,000/- without having any genuine source of income. One motorcycle was also purchased. From perusal of the order of the trial court, it transpires that the trial court has held in para-8 which is as under:

> *"From perusal of the record, it appears that the petitioner was deliberately avoiding the processes of the Court and did not appear before this Court after issuance of Summons and Non-Bailable Warrant of Arrest. The petitioner surrendered before this Court only when process under Section 82 of Code of Criminal Procedure, 1973 was issued against him. Thus, the conduct of the petitioner appears to be dismal as he was deliberately evading the course of justice and trying to frustrate the proceedings in the present case."*

6. In the case of ***Tarsem Lal vs. Directorate of Enforcement Jalandhar, the Hon'ble Apex Court*** has specifically held that:

> *-Though appellants not appearing before the Special Court even after summons were served to them in a complaint made under S. 44(1)(b) PMLA, appellants having cooperated with the investigation and Directorate of Enforcement (ED) not having arrested appellants When ED has not taken the custody of the accused during the investigation, usually, the Special Court, held, should exercise the power of cancellation of the warrant without*

> *insisting on taking the accused into custody provided an undertaking is furnished by the accused to appear regularly before the court Warrants issued against appellants post-cognizance, on facts, thus cancelled*

7. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this court is inclined to enlarge the petitioner on bail. **The above named petitioner is directed to be released on bail with the condition as stated in the case of *Tarsem Lal vs. Directorate of Enforcement Jalandhar*** in connection with Special Trial (PMLA) Case No. 04/2022 arising out of ECIR No. 01/PTZO/2015 dated 30.03.2015 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, PMLA-cum District & Sessions Judge, Patna.

(Ashok Kumar Pandey, J)

Sudhanshu/-
Shubham/-

U		T	