

Vikas Mishra vs Directorate Of Enforcement on 4 November, 2022

Author: Jasmeet Singh

Bench: Jasmeet Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 2576/2022

VIKAS MISHRA

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Through: Mr. Dayan Krishnan, Sr. Adv. with
Mr. Abhir Datt, Mr. Sanjeev Sheshadri, Ms.
Seth, Mr. G. Kale, Mr. Debayan Gangopadhyaya
Adv.

versus

DIRECTORATE OF ENFORCEMENT

..... Responde

Through: Mr. Anupam S. Sharrma, Spl.
Counsel with Mr. Prakarsh Airan, Ms.
Kalsi, Mr. Nishant Choudhary, Adv.
Pramod Kumar, Dy. Dir., ED

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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04.11.2022

CRL.M.A. 22531/2022-EX.

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 2576/2022

This is a petition filed seeking setting aside and quashing of the impugned summons dated 27.10.2022 issued by the respondent seeking appearance of the petitioner before the respondent agency on 07.11.2022.

The summons issued by the respondent is with regard to the investigation under provision of Prevention of Money Laundering Act (PMLA) as the attendance of the petitioner is required in connection with the investigation. In this case, the petitioner has been arrested on 16.03.2021.

On 13.05.2021, the complaint under Section 45 of PMLA has been registered against the petitioner. The Court of learned Special Judge (PC Act) CBI has taken cognizance of the said complaint and issued notice to the petitioner for offences under Section 3 and 4 of PMLA.

Mr. Krishnan, learned senior counsel for the petitioner states that once the petitioner has been arrested, he cannot be asked to appear and give testimony to the respondent. He states that the petitioner is protected under Article 20(3) of the Constitution of India as well as Section 25 of the

Indian Evidence Act.

Mr. Sharrma, learned special counsel for the respondent states that the argument of Mr. Krishnan is fallacious. He states that there is no compulsion to the petitioner to give self-incriminating documents or evidence. He can very well refuse to answer the questions which are self-incriminating.

Issue notice. Mr. Sharrma, learned special counsel accepts notice, seeks and is granted 4 weeks to file a response / status report.

List on 16.01.2023.

CRL.M.A. 22530/2022-STAY This is an application filed seeking stay of the impugned summons dated 27.10.2022 summoning the petitioner and seeking documents under Section 50 of the PMLA arising out of the ECIR No. 17/HIU/2020.

For the time being and on account of the medical condition of the petitioner, it has been agreed as under:-

- (i) That the officials of the respondent shall interrogate the petitioner in the ED office at Kolkata between 10 AM to 5 PM after 1 week from today by giving an advance notice of 1 day.
- (ii) The petitioner shall have the right to refuse, to answer or give documents which he feels are self-incriminating.
- (iii) The questions which the petitioner refuses to answer and the documents which the petitioner refuses to give will be recorded in writing and produced before the Court to see whether they are incriminating or a ploy to refuse to answer.

The questions and documents which the petitioner feels are self- incriminating and not given shall not be a reason for launching prosecution under Section 63 and 64 of the PMLA to oppose the bail application of the petitioner on the ground of non-cooperation of investigation till the said issue is decided by this Court.

The interim directions are only issued till the next date of hearing. List on 16.01.2023.

JASMEET SINGH, J NOVEMBER 4, 2022 / (MS) [Click here to check corrigendum](#), if any