

Chandrama Prasad Singh @ Chandrama ... vs State Of Bihar on 1 August, 2023

Author: Chandra Shekhar Jha

Bench: Chandra Shekhar Jha

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20273 of 2023
Arising Out of PS. Case No.-5 Year-2014 Thana- GOVERNMENT OFFICIAL C
District- Patna

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Chandrama Prasad Singh @ Chandrama Prasad @ Tuntun Singh, Son of
Baleshwar Singh R/o Village- Nandlal Chhapra, P.S.- Ramkrishna Nagar,
District- Patna

... .. Petition

Versus

1. The State of Bihar
2. Union of India through the Assistant Director (P.M.L.A.), Directorate
Enforcement, Patna, Bihar

... .. Opposite Pa

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Senior Advocate
Mr. Ravi Shankar, Advocate

For the Union of India : Dr. Krishna Nandan Singh, A.S.G.I
Mr. Manoj Kumar Singh, CGC

For the State : Mr. Shivaditya Dhari Sinha, J.C. to A.S.G
Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV ORDER

6 01-08-2023

Heard Mr. Ramakant Sharma, learned senior counsel for the petitioner and Dr. Krishna Nandan Singh, Assistant Solicitor General of India for Directorate of Enforcement, Patna, Bihar.

2. The petitioner seeks bail in connection with Special (Trial) PMLA Case No.7 of 2022 arising out of ECIR No.PTZO/05/2014 in which cognizance has been taken for the offences punishable under Sections 3, 4, 44 and 45 of the Prevention of Money Laundering Act, 2002 (for short 'the Act')

3. Brief facts of the prosecution case as it springs from the complaint filed under Sections 44 and 45 of the Act (as Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 amended from time to time) that petitioner appears accused in eight criminal cases, which are:- (i) Gopalpur P.S. Case No.95 of 2007 registered under Sections 302 read with 34 of the Indian Penal Code (for short 'IPC') and section 27 of the Arms Act, (ii) Ramkrishna Nagar P.S. Case No.68 of 2012 registered under

Sections 147, 148, 149, 385, 354, 323, 379, 307, 504, 506 of the IPC, (iii) Ramkrishna Nagar P.S. Case No.10 of 2012 registered under Sections 341, 323, 379, 504, 506 read with 34 of the IPC

(iv) Ramkrishna Nagar P.S. Case No.24 of 2012 registered for the offences under Sections 341, 323, 379, 427, 504 read with 34 of the IPC, (v) Ramkrishna Nagar P.S. Case No.39 of 2012 registered for the offences under Sections 147, 148, 149, 341, 342 and 323 of the IPC, (vi) Ramkrishna Nagar P.S. Case No.127 of 2012 registered for the offences under Sections 341, 323, 353, 427, 504 read with 34 of IPC and Sections 31, 62, 63 of the Food Security Act, 2006, (vii) Ramkrishna Nagar P.S. Case No.64 of 2013 registered under Sections 448, 436 read with 34 of IPC and (viii) Ramkrishna Nagar P.S. Case No.115 of 2011 registered under Sections 341, 323, 504, 506, 188 read with 34 of IPC. An inquiry was initiated under the Act, where out of 8 FIRs as mentioned above, the petitioner was charge- sheeted in five cases after investigation. It is alleged that Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 accused persons including the petitioner have acquired assets by commission of schedule offences and have invested the proceeds of crime in acquiring huge immovable properties and also unaccounted money deposited with banks. It is alleged thereof that the proceeds of crime were utilized for acquisition of movable/immovable properties in name of petitioner and also in the name of his family members, where the value of immovable properties was more than Rs. 3,99,33,000 (Rupees Three crore Ninety-nine Lakhs Thirty-three Thousand only). The allegation further suggests that six bank accounts were found in name of petitioner and his family members along with two vehicles and LIC policies. The total value of movable & immovable properties comes to approximately about Rs. 4,04,29,415/- (Rupees Four Crores Four Lakhs Twenty-nine Thousand Four Hundred Fifteen only), which has been provisionally attached by the Authorized Officer vide order dated 31.03.2022. It is further alleged thereof that the properties worth Rs. 1,01,83,869/- (Rupees One Crore One Lakh Eighty- three Thousand Eight Hundred Sixty-nine only) as concerned with this petitioner have been attached but, the properties of Rs.94,03,280/- (Rupees Ninety-four Lakhs Three Thousand Two Hundred Eighty only) is liable for confiscation. As far bank Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 account is concerned, it is alleged that between 18.01.2011 to 23.03.2018 huge credits to the tune of Rs.13,80,000/- (Rupees Thirteen Lakh Eighty Thousand only) have been observed to be deposited which allegedly appears out of proceeds of crimes as stated above.

4. It is submitted by Mr. Ramakant Sharma, learned senior counsel appearing on behalf of the petitioner that petitioner is an innocent and law abiding person and has committed no offence at all rather he has been falsely implicated in the present case out of ulterior motive. It is submitted that petitioner is on bail in all eight cases out of which, four cases i.e. FIR No.95 of 2007 (registered under Sections 302 of IPC and 27 of the Arms Act), FIR No.68 of 2012 (registered under Sections 307 of the IPC), FIR No.127 of 2012 (registered under Sections 483, 471 of the IPC and FIR No.64 of 2013 (registered under Sections 384, 420, 467, 468 and 471 of the IPC) are made basis for present implication with allegation that the offences as alleged are scheduled in terms of the Act, proceeds of which was utilized to create movable and immovable properties worth of Rs.4,04,29,415/- (Rupees Four Crores Four Lakhs Twenty- nine Thousand Four Hundred and Fifteen only).

5. Mr. Sharma further submitted that the statement of Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 witnesses as recorded under section 50(3) of the Act is not supporting the

allegation. It is submitted that the onus is on the prosecution to show the schedule offences, proceeds of the crime and a connecting link between these two but, in present case, no such link established prima facie as to incriminate petitioner and, as such, entire implication against the petitioner is based upon assumption and suspicion. It is also pointed out that petitioner is capable of proving his source of income out of details which is a part of Annexure-2 series of the present bail petition, where his capital account, Income tax return and sale purchase deed are well explained.

6. While travelling over his argument, Mr. Sharma, while explaining innocence of this petitioner, submitted that the then SHO of Ramkrishna Nagar Police Station, Patna, namely Raghav Dayal, who made an attempt to purchase a big chunk of the ancestral land of this petitioner, at no cost and on denial, falsely implicated this petitioner with present case, which has been lodged without having any legal occasions. It is further pointed out that present implication is also in violation of the provision of Section 23 of the Act, as there is no reason to believe that offence under the Act had been committed by this petitioner. It is submitted as there are certain stringent Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 procedures and provisions made under the law, therefore, "reasons to believe" must be tangible, suggesting that material in hand has a clear nexus or close proximity with the belief. Learned senior counsel further pointed out that the authorities concerned have rejected the source of income of this petitioner on very flimsy ground as his registration in dairy business was not made. It is submitted that several persons in locality earns their livelihood from dairy business also and almost all of them have not registered themselves. This petitioner is doing business of dairy farm since last 25 years but, the said fact was not taken into consideration by the authorities concerned while calculating his income. Petitioner is also carrying his farming business in Patna since 1991. It is submitted that the entire investigation as appears roaming around the fact that petitioner and his brother have been alleged to be "land Mafia" without having any such finding by a court of competent jurisdiction. As far as cash income is concerned, according to the prosecution, between 18.01.2011 to 23.03.2018, an amount to the tune of Rs.13,80,000/- (Rupees Thirteen Lakh Eighty Thousand only) has been found deposited with bank which is not an astronomical figure as far deposit of seven long years are concerned.

Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023

7. Mr. Sharma, further submitted that the presumption as provided under Section 24 of the Act is not applicable at this stage as same be taken note during the course of trial. While arguing further, learned senior counsel relied upon the legal report of Hon'ble Apex Court as reported in the matter of Sanjay Chandra vs. CBI as reported through (2012) 1 SCC 40, where it has been held that after completion of investigation, the presence of the accused in the custody is not required. A reliance has also been made upon the legal report as reported in the matter of P. Chidambaram vs. Directorate of Enforcement as reported through 2020 (1) BLJ 200 (SC) with a submission that granting bail is the rule and refusal is the exception so as to ensure that accused must get an opportunity for securing fair trial being one of his fundamental right as guaranteed under the Constitution of India. Mr. Sharma further relied upon the report of Rahna Jalal vs. The State of Kerala as reported through 2021 (3) BLJ 35 (SC), where in para 12 a reference was made to earlier decision of the Hon'ble Apex Court as reported in the matter of Bal Chand Jain vs. State of Madhya Pradesh as reported through (1976) 4 SCC 572, where same stringent provision of law was available through Rule 184 of the

Defence and Internal Security of India Rules, 1971 vide Clause (b), Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 where it was held that the anticipatory bail can be granted and, as such, Section 45 of the Act cannot be taken with such hardships, to the extent, denying even regular bail of the petitioner.

8. Per contra, Dr. Krishna Nandan Singh, Assistant Solicitor General while opposing the prayer for bail submitted that petitioner has committed criminal activities relating to scheduled offence and generated proceeds of crime and found actively involved in process and activity connected with proceeds of crime i.e., acquisition, concealment, transfer of proceeds of crime as well as projection of the same as untainted on the relevant dates. It is further submitted that petitioner is a habitual offender and found involved in various criminal activities like, murder, attempt to murder, extortion, cheating, forgery and illegal possession and use of arms and ammunitions under Sections 302, 307, 384, 385, 420, 467 and 471 and also under Section 27 of the Arms Act. It is further submitted by learned Assistant Solicitor General that the petitioner committed various crimes in an organized manner, which appears corroborated through statement of Mr. Sunil Kumar (Director of Radha Rani Construction Pvt. Ltd.), Mr. Sitesh Raman (Director of Raman & Kumar Construction Ltd.), Santosh Kumar Pathak, Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 Murlidhar Pandey (Secretary of Suman Sahkari Grih Nirman Samiti), Sri Pankaj Suman (Complainant of FIR No.68 of 2012 dated 28.05.2012), Shri Shivji Prasad and Sri Lallu Prasad, while recording their respective statements under Section 50(3) of the Act.

9. Learned ASG further submitted that Sri Santosh Kumar Pathak, who is informant of FIR No.95 of 2007 and FIR No.64 of 2013 during his statement as recorded under Section 50 of the Act, inter alia, stated that he purchased a piece of land from Murlidhar Pandey of Suman Sahkari Grih Nirman Samiti in the name of his brother Sri Anil Kumar Pathk. He further submitted that on 07.02.2007, the petitioner had deceitfully collected the documents of said land by saying that the same will be mutated in their name. It is further submitted that on 13.02.2007, Sri Anil Kumar Pathak was brutally murdered by a gang consisting of the petitioner, Murlidhar Pandey, Shivji Prasad, Ranjeet Yadav and Horil Yadav. It is submitted that petitioner and others took signature of Sri Santosh Kumar Pathak on a blank paper and filed complaint against one Pappu Yadav, Sunil Kumar and Sanju regarding the murder of Anil Kumar Pathak. In the year, 2013, petitioner and Murlidhar Pandey burnt the house of Late Anil Kumar Pathak and Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 thereafter, in the year, 2014, the petitioner sold the land of Sri Santosh Kumar Pathak and Late Anil Kumar Pathak by creating a false deed and in this regard, an FIR was lodged against Sri Murlidhar Pandey, petitioner and others by Sri Santosh Kumar Pathak for which, charge-sheet has been filed. It is further submitted that the peoples were fraudulently taken into confidence by the petitioner by way of financial or other help and also insisting them to purchase land in their name. Later on, the documents related to the purchased property was procured by way of false commitment, mutation etc. and subsequently, the petitioner sold those properties to others by creating false and fabricated documents of the property, without the knowledge of the actual owner of the land.

10. Dr. Krishna Nandan Singh, learned ASG further submitted that on scrutiny of the sale-purchase deed of the petitioner and his family members received from District Sub- Registrar, Patna Sadar,

Patna, it was found that many immovable properties were purchased and sold amongst themselves by the petitioner and his brothers, namely, Mr. Dablu Kumar, Bhonu Prasad, Day Shankar Prasad, Jay Vir Kumar and Sangeeta Kumari in order to conceal the primary source of acquisition of properties. He submitted that the petitioner has Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 already siphoned off many immovable properties acquired out of proceeds of crime generated by him through his criminal activities related to scheduled offence. He further submitted that the petitioner and his brothers used to change the name of the real ownership of properties in order to hide the real owners of properties which were acquired by them through various criminal activities to frustrate the proceeding under the Act. He submitted that during the course of statement as recorded under Section 50 of the Act, he has stated that currently he has ten immovable properties acquired in his name, which were purchased in cash and he has already disposed of two immovable properties purchased by him earlier in his name. He further submitted that petitioner has not produced any of the evidence regarding the property being ancestral property. But, during the course of investigation under the Act, it was found that out of ten properties claimed by him to be currently in his possession, one property purchased vide sale deed no.24507 has also been disposed of by him. This shows his ill intent to provide false facts during the course of proceedings conducted under Section 50 of the Act.

11. Mr. Singh has argued that the income tax return filed by the petitioner has revealed that he has started filing Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 Income Tax Return (for short 'ITR') from the AY 2012-13 by reflecting an amount of Rs.3,17,446/- as income from profits and gains from business or profession. Though, for the A.Y. 2013-14 to 2015-16, the same had shown as 'nil'. Afterward, there is no such claim for profit and gains from profession and business. He further urged that although income from business or profession has been reflected, but, in reality, there was no such source of income. He further submitted that during the A.Y. 2012-13, the petitioner has shown Rs.75,600/- as income from house property, which is suddenly increased to the tune of Rs.4,47,720/- during A.Y. 2013-14 to the tune of Rs.6,55,200/-. However, no documentary evidence was produced during the course of investigation in support of income from house property. He further submitted that in reality there was no such income from house property but to legitimize the illegally earned money, a false source of income i.e., "income from house property" has been reflected. He further submitted that in the same manner, the petitioner has shown his income from agriculture in the ITR, though, there is no such source of income, despite of ample opportunity given to him, he has failed to produce any documentary evidence in support of his claim of income as reflected in his ITRs. He further submitted that the Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 petitioner shows exaggerated agricultural income in the ITRs in order to conceal and to cover up the proceeds of crime in the guise of agricultural income so that acquisition of properties could not be projected as untainted.

12. Dr. Krishna Nandan Singh, Assistant Solicitor General has further submitted that the premium of LIC policies purchased by the petitioner was paid in cash however, no evidence regarding the source of cash utilized for payment of premium of the purchased policies was produced. This shows that the insurance policies were purchased so as to claim/project proceeds of crime as untainted. He further submitted that petitioner has purchased vehicles in his own name and repayment of vehicle loan was made in cash through his own bank account. He further submitted that cash was credited

into their respective bank accounts then, repayment of vehicle loan was made and he had not produced any evidence regarding the source of cash deposits that were utilized for repayment of loan.

13. Mr. Singh, while travelling over argument submitted that the petitioner in collusion with his brothers and others has generated huge proceeds of crime and has also generated more and more income out of proceeds of crime. The income claimed out of business, agricultural work, poultry Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 work, sale-purchase work of land and income from house property was deliberately shown to project the tainted money i.e., proceeds of crime, as untainted. He further submitted that the acquisition of huge movable and immovable properties was actually done through proceeds of crime. Therefore, the income generated out of the claimed business is nothing but fruits of proceeds of crime that is going on since past many years.

14. Mr. Singh further submitted that Mr. Murlidhar Pandey, Secretary of Suman Sahkari Grih Nirman Samiti in his statement as recorded under Section 50 of the Act stated that this society used to purchase pieces of land from different farmers. Later on, the purchased land was used to be sold to its members in portions. The portions of land which were allotted to the members were in the ratio of their contribution. However, from the scrutiny of various sale deeds in the name of the petitioner and his family members, it was found that most of the plots were purchased by the petitioner in his own name and in the name of his family members in nominal rate in collusion with Murlidhar Pandey. He further submitted that the price shown against purchase was very low in comparison to the market value. Later, these properties were sold by the petitioner in very high prices. He further submitted that the statement of Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 Mr. Lallu Prasad was also recorded under Section 50 (3) of the Act in which he inter alia stated that Murlidhar Pandey used to acquire land in society's name in collusion with the petitioner and others by illegal manner. In fact, the petitioner, Dablu Kumar and his other brothers as well as Sri Murlidhar Pandey and Shivji Prasad are involved in criminal activities for acquiring land illegally. They all have made a "land Mafia Gang" from which they used to threaten the innocent people by using their muscle power and acquired huge ill-gotten money. He further stated in his statement that petitioner and his brothers are involved in various crimes like, extortion etc and they performed crime in a systematic manner. They first sell land to someone and thereafter, by taking money from any third person and making false documents, they again sell the same land, however, they do not give ownership of the land to any of the purchaser and, thus, generating proceeds of crime.

15. Mr. Singh, argued that the petitioner and his family members used to enter into development agreement with various builders and later, they used to take money in cash against agreement. However, the petitioner and his family members did not give possession to the corresponding builders and used to hamper construction work so that they can keep the land with Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 them. This fact has also been corroborated by Mr. Sunil Kumar (Director of Radha Rani Construction Pvt. Ltd) and Mr. Sitesh Raman (Director of Raman and Kumar Construction Pvt. Ltd.) in their statements recorded under Section 50 of the Act. Mr. Sunil Kumar in his statement stated that he has entered into a development agreement of total land 15.5 kattha among land owner (petitioner), his brothers and his father Baleshwar Prasad Singh.

After making development agreement, the petitioner and his family members started disturbing the work of development/construction of project and they sold 4.5 kattha land out of total 15.5 kattha piece of land, without the knowledge of the developer. He further submitted that the statement of Mr. Sitesh Raman (Director of Raman and Kumar Construction Ltd) stated in his statement that he along with other directors of his company had signed a development agreement with petitioner in the year 2013 for the construction of flat at Khemnichak, Patna. Against the development agreement, he paid Rs.10 lakhs to the petitioner through cheque and demand draft. After agreement and giving advance of Rs. 10 Lakhs, he was never given right or allowed to start construction on that land. He further stated in his statement that the petitioner and his brothers as well as their gang members are very Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 notorious and have criminal background and many cases are registered against them at various police stations. He further stated in his statement that these people forcefully seize the land of innocent people and sell it according to their own choice. The petitioner and others first of all get the government revenue receipt for someone's land, afterward, by showing their ownership of that land, they made an agreement to sell it to another person and then, in the name of the agreement, they used to take money from the party. Later, they used to get registered the same disputed land in the name of their brothers and in this way, they cheat builders and other innocent person and acquired huge proceeds of crime.

16. Dr. Krishna Nandan Singh, Assistant Solicitor General has submitted that the statement of Mr. Shivji Prasad, who is relative of this petitioner was also recorded under Section 50(3) of the Act wherein he stated that one piece of land used to be sold to different people by the different family members of the petitioner and in this way, there are different land owners and documents available for a single piece of land. Out of these land owners, one who is more powerful will take possession of the properties. The petitioner and his family members used to purchase such piece of land from all such land Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 owners and again re-sale such landed properties to some other persons against heavy price. He further stated that these types of landed properties for which no documents are available, such properties are used to be sold or purchased many times to different people by the petitioner and his family members and after possession, they used to sell the same properties to some other persons at costly rate. Mr. Singh has next submitted that petitioner and his brothers used to first get registered any piece of land in the name of some innocent people having no criminal antecedent and later on, they used to sell the same landed properties within a month or two to some other person on higher rate and in this way, they used to disguise the ownership of land.

17. Mr. Singh has argued that the statement of the petitioner was also recorded under Section 50(3) of the Act wherein he stated that one property was purchased by him from Suman Sahkari Grih Nirman Samiti vide sale deed no.16140 dated 21.05.2012 measuring 13.28125 decimal against Rs.3,26,000/- was again registered by him in his name in four parts vide sale deed nos. 6702/2013, 1923/2013, 31707/2012 and 2057/2016 and this action was taken by him in order to prevent any dispute raised by the descendant of the owner of original property and he did not pay anything towards the Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 execution of such sale deeds. He further submitted that during the course of investigation, it was found that the petitioner and his gang members used to forcefully acquire land of innocent people by having it registered in

the name of Suman Sahkari Grih Nirman Samiti and then getting it registered in his own name in very nominal rates, which is corroborated from the fact that the said property was purchased by him in only Rs.3,26,000/-, whereas the combined amount shown in the above sale deeds, which he registered again in his own name is of Rs.1,10,18,000/-, which is approximately 33 times more than the price he paid to Suman Sahkari Grih Nirman Samiti. Mr. Singh next submitted that the aforesaid modus operandi of the petitioner regarding illegal possession of immovable properties has also been corroborated by Lallu Prasad, Santosh Kumar Pathak and others in their respective statements.

18. While arguing further, Dr. Krishna Nandan Singh, ASG has placed reliance upon the legal report of Hon'ble Apex Court as reported in the matter of Rohit Tandon vs. Directorate of Enforcement as reported in (2018) 11 SCC 46, relevant paragraphs of which, is reproducing hereinbelow:-

"16....The sweep of Section 45 of the Act of 2002 is no more res integra. In a recent decision of this Court in the case of Gautam Kundu Vs. Directorate Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 of Enforcement (Prevention of Money Laundering Act), Government of India, this Court has had an occasion to examine it in paragraphs 28-30. It will be useful to advert to paragraphs 28 to 30 of this decision which read thus:-

"28. ... Before dealing with the application for bail on merit, it is to be considered whether the provisions of Section 45 of PMLA are binding on the High Court while considering the application for bail under Section 439 of the Code of Criminal Procedure. There is no doubt that PMLA deals with the offence of money laundering and Parliament has enacted this law as per commitment of the country to the United Nations General Assembly. PMLA is a special statute enacted by Parliament for dealing with money laundering. Section 5 of the Code of Criminal Procedure, 1973 clearly lays down that the provisions of the Code of Criminal Procedure will not affect any special statute or any local law. In other words, the provisions of any special statute will prevail over the general provisions of the Code of Criminal Procedure in case of any conflict.

29. Section 45 of PMLA starts with a non obstante clause which indicates that the provisions laid down in Section 45 of PMLA will have overriding effect on the general provisions of the Code of Criminal Procedure in case of conflict between them. Section 45 Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 of PMLA imposes the following two conditions for grant of bail to any person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule of PMLA:

(i) That the prosecutor must be given an opportunity to oppose the application for bail;

and

(ii) That the court must be satisfied that there are reasonable grounds for believing that the accused person is not guilty of such offence and that he is not likely to commit any offence while on bail.

30. The conditions specified under Section 45 of PMLA are mandatory and needs to be complied with, which is further strengthened by the provisions of Section 65 and also Section 71 of PMLA. Section 65 requires that the provisions of CrPC shall apply insofar as they are not inconsistent with the provisions of this Act and Section 71 provides that the provisions of PMLA shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. PMLA has an overriding effect and the provisions of CrPC would apply only if they are not inconsistent with the provisions of this Act. Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 Therefore, the conditions enumerated in Section 45 of PMLA will have to be complied with even in respect of an application for bail made under Section 439 CrPC. That coupled with the provisions of Section 24 provides that unless the contrary is proved, the authority or the Court shall presume that proceeds of crime are involved in money laundering and the burden to prove that the proceeds of crime are not involved, lies on the appellant."

19. Mr. Singh further relied upon the legal report of Hon'ble Apex Court in the matter of Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation as reported in (2013) 7 SCC 439, has taken consistent view that "economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country".

20. It would be further appropriate to reproduce section 45 of the Act for sake of convenience and better understanding of legal position, which reads as under:-

"45. Offences to be cognizable and non- bailable.--(1) [Notwithstanding anything Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule 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, 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 Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 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;] (2) The limitation on granting of bail specified in 3 [***] 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".

21. While concluding argument, learned ASG by taking note of statement of petitioner, as recorded under Section 50(3) of the Act, submitted that the source of purchasing all land as submitted above is income from agriculture, dairy farm and house rent income, where no documentary evidence regarding source of fund utilized for purchase of said land appears to be supported by documentary evidence, drawing a presumption that all such property acquired through cash generated through proceeds of crime. It is pointed out that the value of purchased immovable properties during the period 2010-2013 is to the tune Rs.1.24 crores, which is 23 times more than the income shown in ITR during the said period.

22. Learned ASG further submitted that the attachment proceedings issued for immovable properties to the tune of Patna High Court CR. MISC. No.20273 of 2023(6) dt.01-08-2023 Rs.3,80,30,127/- and movable property to the tune of Rs.23,99,288.29/- which is a part of proceeds of crime, where remaining proceeds of crime has already siphoned off by petitioner and others along with other properties and the investigation with respect to the same is still pending. It is further submitted that petitioner is not co-operating with the investigation, as he has not provided any documents related to his source of income although he has undertaken to submit the same while recording his statement under Section 50(3) of the Act.

23. It is submitted that the case of petitioner does not appears to fall under any of exceptional provisions of section 45(1)(ii) of the Act.

24. In view of above mentioned facts and circumstances and by taking note of facts as discussed above, where it appears that:

(a) Petitioner is accused in 8 criminal cases which appears "schedule offence" in terms of the Act, proceeds of which prima facie appears to create huge property and cash, further,

(b) Petitioner fails to furnish prima facie satisfactory explanation regarding huge fixed assets and cash Patna High Court CR. MISC. No.20273 of 2023(6)

dt.01-08-2023 available with him, while recording his statement under section 50(3) of the Act, where it appears to investigating agency that petitioner is not co-operating during investigation, where investigation regarding remaining proceeds of crime above Rs.4,04,29,415.29/- is still going on.

(c) Therefore, this Court at this stage has no reasonable grounds for believing that petitioner is not guilty of offence and he is not likely to commit offence while on bail.

25. Hence, the prayer of bail of petitioner is rejected herewith.

(Chandra Shekhar Jha, J.) Sanjeet/-

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