

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.80160 of 2023

Arising Out of PS. Case No.-10 Year-2014 Thana- E.C.I.R (GOVERNMENT
OFFICIAL) District- Patna

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Dadan Singh @ Dadan Yadav @ Dadan Pahalwan @ Dadan Singh Yadav Son
Of Lal Chandra Yadav Resident Of Village - Samhar, Kusalpur, P.S. - Dumraon,
District - Buxar

... .. Petitioner/s

Versus

Directorate Of Enforcement, Government Of India Through Its Assistant
Director, Prevention Of Money Laundering Act

... .. Opposite Party/s

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Acts/Sections/Rules:

- IPC - Section 188, 384, 420, 120B
- Arms Act - Sections 25(1-b), 26, 35, 29, 30

Cases referred:

- *Tarsem Lal versus Directorate of Enforcement*, reported in 2024 (3)
PLJR (SC) 119

Application - for grant of anticipatory bail - under Section 4 of PMLA Act

One vehicle was seized which had weapons without valid license. The allegation against petitioner was that he is a habitual offender and involved in various criminal activities like criminal conspiracy, attempt to murder, cheating and forgery etc.

Held - Learned court agreed with the view that once cognizance is taken of the offence punishable under Section 4 of the PMLA, the Special Court is seized of the matter and the ED and other authorities named in Section 19 of the PMLA cannot exercise the power of arrest of the accused shown in the complaint. - Once complaint is filed, it will be governed Section 200 to 205 of Cr.P.C. as none of the said provisions are inconsistent with any of the provisions of the PMLA and the Special Court can direct the accused to furnish Bond in terms of Section 88 of the Cr.P.C. and may also grant on sufficient cause, exemption from personal appearance under Section 205 Cr.P.C. (Para 4)

Anticipatory bail is granted (Para 8)

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Appearance :

For the Petitioner : Mr. Y.C.Verma, Sr.Advocate
Mrs. Priyanka Singh, Advocate
For the Opposite Party : Dr. K.N Singh (ASG)
Mr Tuhin Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 17-09-2024

This is an application for grant of anticipatory bail to the
petitioner in connection with Special Trial No. (PMLA) Case No.
08 of 2021, arising out of ECIR No. ECIR/PTZO/10/2014 dated
13.05.2014 instituted for offences punishable under Section 4 of
the Prevention of Money Laundering Act, 2002 (for short
“PMLA”).

2. The prosecution case is that on the basis of F.I.R. No.
43/2006 dated 12.11.2006 and supplementary Chargesheet
No.62/07 dated 21.10.2007 filed by Koransarai P.S. Buxar
forwarded by the S.P. Buxar, Bihar vide his Letter No 6192 dated
16.11.2013, an investigation was initiated by the Enforcement



Directorate, Patna Zonal office, Patna under the provisions of PMLA, 2002. In the supplementary charge-sheet, Sri Dadan Singh and Smt. Usha Singh were made accused under Sections 188, 384, 420, 120B I.P.C. and under Sections 25(1-b), 26, 35. 29. 30 of the Arms Act. In the FIR, it is alleged that one Scorpio having Registration No.DL-9CG-9596 was seized on 12.11.2006 during *Panchayat* Election and in the said vehicle two Aarakshi who were bodyguard of Dadan Singh, MLA and two other people namely Bhim Ram and Sanjay Kumar Yadav were present along with Rifles and its cartridge who were not carrying the license of those rifles. It is further alleged that approximately 500 posters and hand bill of “*Prajatantrik Lok Ekta Dal*” was also found in the vehicle which is chaired by Shri Dadan Singh (petitioner). In the Supplementary Chargesheet no.62/2007, it is mentioned that the suspect Bhim Ram is a criminal and active member of MCC. Both the rifles seized from the Scorpio were in the name of Smt. Usha Devi W/o Shri Dadan Singh and one Arms License bearing No.56/2000 was issued from Nawada District and another Arms License bearing No.276/2003 was issued from Buxar District. It is further alleged that many irregularities were found in the process of acquiring these Arms Licenses and during the investigation, it was also found that the vehicle used in this case was also acquired



from its owner by threatening and deceit. The license holder has intentionally handed over the Arms to deserter of murder case and active member of MCC for the purpose of crime. The detained suspects were closely related to the family of License holders. Therefore, petitioner and his wife Smt. Usha Devi were framed as accused persons under Sections 120B, 384 & 420 of Indian Penal Code and Sections 25, 26, 29 & 30 of Arms Act is Schedule Offence under Prevention of Money Laundering Act, 2002 (PMLA). Accordingly, inquiries were initiated under PMLA against the accused persons after recording brief facts of schedule offence in the ECIR No.PTZO/10/2014 dated 13.05.2014 and in inquiry under PMLA, it is revealed that co-accused Dadan Singh and others have acquired movable and immovable assets by committing crimes in the names of their family members and associate and projected the same as untainted. The allegation against petitioner is that he is a habitual offender and involved in various criminal activities like criminal conspiracy, attempt to murder, cheating and forgery etc. under Sections 120B, 307, 419, 420, 467, 471 of Indian Penal Code and manufacture, sell, transfer and use of arms and ammunition etc. under Sections 25, 26, 30 of the Arms Act, thus generating tainted money which were utilized



for acquisition of movable and immovable properties in his own name and in the name of his family members.

3. Learned senior counsel appearing on behalf of petitioner submits that petitioner is innocent and has been falsely implicated in this case without any cogent material on account of political hostility. The petitioner earned no tainted money from any criminal case at all. The entire allegations are malicious and *mala fide* with a sole aim to tarnish the political career of the petitioner. The petitioner appeared before the E.D. officials thrice and explained and answered all questions and queries asked from the E.D. officials. Learned senior counsel for the petitioner further submits that out of five cases, as detailed in complaint, only two cases are pending against petitioner, but the E.D. has taken into consideration even disposed off cases for the purpose of making out the case against the petitioner. It was further submitted that no case has any connection with the movable and immovable property acquired by the petitioner and his family members and as such, the properties cannot be said to have been acquired by the proceeds of crime. It was further submitted that the ED has not been able to establish that the fund utilized for acquiring the assets, detailed in the instant complaint, are proceeds of crime and the prosecution case is based only on conjecture, surmises and



presumption. In fact, the alleged property has been acquired by mortgaging loan with HUDKO and the money which the petitioner has legally received from the Government.

4. Lastly, learned counsel for the petitioner submits that this case is squarely covered by the judgment of Hon'ble Supreme Court in the case of *Tarsem Lal versus Directorate of Enforcement*, reported in **2024 (3) PLJR (SC) 119** wherein Hon'ble Supreme Court has held that once cognizance is taken of the offence punishable under Section 4 of the PMLA, the Special Court is seized of the matter and the ED and other authorities named in Section 19 of the PMLA cannot exercise the power of arrest of the accused shown in the complaint. Hon'ble Supreme Court has further held that once complaint is filed, it will be governed by Section 200 to 205 of Cr.P.C. as none of the said provisions are inconsistent with any of the provisions of the PMLA and the Special Court can direct the accused to furnish Bond in terms of Section 88 of the Cr.P.C. and may also grant on sufficient cause, exemption from personal appearance under Section 205 Cr.P.C. Hence, on aforesaid ground, it has been prayed to allow the present anticipatory bail petition.

5. On the other hand, learned counsel appearing on behalf of opposite party/E.D. submits that once an accused appears



before the Special Court, he is deemed to be in its custody and as such, the accused must apply for bail under Section 439 of the Cr.P.C. However, on merit of the case, he submits that several FIRs/Charge sheet filed against petitioner (Dadan Singh) & others revealed that petitioner is habitual offender and involved in various criminal activities like attempt to murder, extortion, criminal conspiracy, cheating, forgery and illegal possession and use of arms and ammunition under various sections of Indian Penal Code and Arms Act. During the investigation conducted under PMLA, it has been found that petitioner has committed the offence of money laundering, as defined under section 3 of the PMLA, and punishable under section 4 of the PMLA. He has generated proceeds of crime. He is actually involved in process or activity connected with proceeds of crime i.e. acquisition, concealment, transfer of proceeds of crime as well as projection of the same as untainted.

6. Learned counsel for the Enforcement Directorate further submits that after investigation a prosecution complaint u/s 44 r/w 45 of PMLA was filed against the Petitioner and other co-accused persons before the learned Special Court (PMLA), Patna on 14.12.2021 for commission of offence u/s 3 of PMLA and punishable u/s 4 of the said Act, in which, cognizance was taken



on 14.12.2021 and summons dated 14.12.2021 were issued to all accused including the petitioner for appearance. However, despite execution of summons, the petitioner did not appear before the concerned Court. N.B.W. has been issued by Ld. Special Court (PMLA), Patna on 21.10.2022. Accordingly, he submits that after considering the entire facts and circumstances, the learned Session Judge/Special Judge (PMLA), Patna has rightly rejected the anticipatory bail petition filed on behalf of the petitioner, vide order dated 15.09.2023 and this Court should not interfere with the order impugned.

7. Having heard the submissions as advanced by learned counsel for the parties and perused the materials available on record, this Court is in agreement with the submission advanced by learned counsel for the petitioner and accordingly, the order impugned i.e. order dated 15.09.2023 passed by learned Sessions Judge /Special Judge (PMLA), Patna in Special Trial No. (PMLA) Case No. 08 of 2021 (arising out of ECIR No. ECIR/PTZO/10/2014) is, hereby, set aside, in the light of judgment of the Hon'ble Supreme Court in the case of *Tarsem Lal (supra)* and learned Special Court (PMLA), Patna is directed to consider the application of petitioner afresh and dispose of the same in the light of observation made by Hon'ble Supreme Court in



paragraphs 23 & 25 of the case of *Tarsem Lal (supra)* with following conditions:

(i) The petitioner shall appear before the concerned Special Court within one month from the date of receipt / production of copy of this order and shall file an undertaking before the Special Court that he shall regularly and punctually appear before the Special Court on the dates fixed unless his appearance is specifically exempted by the exercise of powers under Section 205 of the Cr.P.C.; and

(ii) The petitioner shall furnish bond in accordance with Section 88 of the Cr.P.C. to the satisfaction of the Special Court within one month from the date of receipt / production of copy of this order.

8. With above observation and direction, this petition is allowed.

(Prabhat Kumar Singh, J)

Anay

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	20.09.2024
Transmission Date	20.09.2024

