



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1455 of 2021**

1. Vimal Agrawal, S/o Shri Vishwanath Agrawal, aged about 31 years, R/o M 52, Rajiv Nagar, Raipur (C.G.)
2. Vinod Agrawal S/o Lt. Shri Dhanlal Agrawal, aged about 61 years, R/o Behind Mahaveer School, Gudhiyari Raipur (C.G.)

---- Applicants**Versus**

- Enforcement Directorate, Through Assistant Director, Sub-Zone Raipur (C.G.) Second Floor A-1 Block, Pujari Chambers, Pachpedi Naka, Raipur (C.G.)

---- State/Non-applicant

For Applicants	:	Shri Abhishek Sinha, Senior Advocate with Shri Pragalbha Sharma, Advocate
For Non-Applicant	:	Dr. Saurabh Kumar Pande, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board**09.02.2023**

1. The applicants have preferred this first bail application under Section 438 of Cr.P.C. as they apprehend their arrest in connection with Criminal Case No. 01/2021 based Information Report No. ECIR/01/NGR/2011, on complaint made by Assistant Director, Sub-Zone Raipur (C.G.), Enforcement Directorate for the offence punishable under Sections 3 & 4 of the Prevention of Money Laundering Act, 2002 (for short 'Act of 2002'), pending before the Special Judge (Prevention of Money Laundering Act) and IVth Additional Sessions Judge, Raipur (C.G.).
2. The case, in a nutshell, is that on the basis of the information provided by IT Department, an F.I.R. No. 06/2010 dated 19.02.2010 was registered by EOW/ACB Raipur against Babulal Agrawal, IAS Officer under Sections 13 (1) (e) & 13 (2) to Prevention of Corruption Act, 1988. During the



investigation, it emerged that Sunil Agrawal, Chartered Accountant knew Babulal Agrawal and his brothers Pawan Kumar Agrawal and Ashok Kumar Agrawal since 2002 as he was looking after their financial matters. Sunil Agrawal has opened 446 numbers of bank accounts of various persons in connivance with the brothers of Babulal Agrawal and later on, the entire amount was transferred to M/s Prime Ispat Limited through 13 shell companies. The allegations against the present applicants are that they helped the main accused persons and they were involved in the commission of the crime in question.

3. Learned counsel for the applicants would submit that Pawan Kumar Agrawal and Ashok Kumar Agrawal had applied for anticipatory bail before this Court vide M.Cr.C.(A) No. 1624/2021 and same was dismissed vide order dated 18.02.2022 by this Court, against which Special Leave to Appeal (Crl.) No(s). 2106/2022 was preferred before the Hon'ble Supreme Court and same has been allowed vide order dated 01.02.2023. They would further submit that the allegations against the present applicants are similar to Pawan Kumar Agrawal and Ashok Kumar Agrawal, who have been granted benefit of Section 438 of Cr.P.C. by the Hon'ble Supreme Court. Thus, they would pray for similar order as granted to Pawan Kumar Agrawal and Ashok Kumar Agrawal in Special Leave to Appeal (Crl.) No(s). 2106/2022 by the Hon'ble Supreme Court.
4. On the other hand, leaned counsel for the non-applicant would oppose the submission made by Shri Abhishek Sinha, learned Senior Counsel. He would further submit that according to Section 45 of the Act of 2002, the court has to satisfied twin conditions i.e. (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, before passing any order for bail. He would submit that there are serious allegations against the present applicants as they were involved in the offence according to Section 3 of the Act of 2002. He would also submit that the Hon'ble Supreme Court has granted liberty to Pawan Kumar Agrawal and Ashok Kumar Agrawal to appear before the Court concerned and to apply for regular bail. He would refer the relevant part of the order passed by the Hon'ble Supreme Court and thus, he would pray for rejection of the bail application moved by the present applicants.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. From bare reading of the Section 45 of the Act of 2002, it appears that the court has to record finding with regard to grant of an opportunity to the Public Prosecutor and if the Public Prosecutor opposes the application, the court has to record its satisfaction to the effect 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, before passing an order of release of an accused. In the matter of *Pawan Kumar Agrawal and Ashok Kumar Agrawal* same offence arising out of same complainant case was registered, but no plea was taken by Enforcement Directorate before this High Court and they have been granted protection by the Hon'ble Supreme Court.

7. I have gone through the order passed by the Hon'ble Supreme Court in the case of *Pawan Kumar Agrawal and Another* passed in *Special Leave to Appeal (Crl.) No(s). 2106/2022 dated 01.02.2023*. The relevant part of the order dated 01.02.2023 is reproduced herein below:-

“Having heard learned counsel appearing on behalf of the respective parties and considering the fact that during the investigation, the Investigating Agency never arrested



the petitioner(s) and that the petitioner(s) had co-operated during the investigation and that now the Charge-sheet is already filed and the custodial investigation is not required, we deem it appropriate to make order dated 23.03.2022 as absolute. It is directed that in case of arrest of petitioner(s), the petitioner(s) be released on bail on the terms and conditions that may be determined by the learned Trial Court. Thereafter, within a period of 10 days, the petitioner(s) may file regular bail application before the Competent Court having jurisdiction, which be considered in accordance with law and on its own merits without in any way being influenced by the present order.”

8. Considering the fact that the similar relief has been granted to the similarly situated accused persons by the Hon'ble Supreme Court, I am inclined to allow this bail application in the light of the order passed by the Hon'ble Supreme Court. Therefore, it is directed that in case of arrest of the present applicants, they shall be released on bail on the terms and conditions that may be determined by the trial Court. Thereafter, within a period 10 days, the applicants may file regular bail application before the Competent Court having jurisdiction, which be considered in accordance with law and on its own merits without in any way being influenced by the present order.
9. With the aforesaid observations, the M.Cr.C.(A) No. 1455/2021 stands disposed of.

Sd/-
(Rakesh Mohan Pandey)
Judge