

I.A No. 5/2023

CBI No. 55/2023

CBI Vs. Ashutosh Kumar & Anr.

RC DAI-2016-A-0020

U/s 109 IPC R/w Section 13 (2) R/W 13(1) (e) of PC Act.

07.12.2023

Present : Sh. Shree Prakash Sinha & Sh. Nawalendra Kr.
Ld. Counsels for the applicant.

Sh. Hari Mohan, Ld. Sr. Public Prosecutor for CBI.
Sh. Atul Tripathi, Ld. Spl PP for E.D.

1. Arguments heard on the application dated 29.11.2023 moved on behalf accused Ashutosh Kumar (A-1).

2. It is, inter alia, pleaded on behalf of the applicant that admittedly, in the present case, the check period is 01.01.1997 to 31.12.2008 for the purpose of D.A case i.e predicate offence wherein the accused/applicant herein is alleged to have amassed D.A worth Rs. 7,92,17,483/-. It is further pleaded that even for the purpose of PMLA, the alleged proceeds of crime is restricted to the said amount as the E.D cannot create another predicate offence. As there is no case against the accused/applicant, therefore, he is prepared to pledge one self acquired property at Pune which was purchased by him on 13.07.2009 i.e after the check period. Accordingly, prayer is made that the property i.e agricultural land situated at Valvan, Tal-Maval, District- Pune whose current value is more than the referred D.A amount may be attached subject to the outcome of proceedings initiated by CBI and E.D.

3. No reply to the aforesaid application has been filed by the CBI and the E.D.

4. It is argued by both Ld. Sr. Public Prosecutor for CBI and Ld. Spl. Public Prosecutor for E.D that the present application is nothing but is an abuse of process of court. No provision of law has been mentioned under which the present application has been moved and the application is based upon conjectures, surmises and on own assumption of the applicant/accused. Till date, no proceedings of attachment of the properties of A-1 has been initiated and therefore, seeking directions for attachment of some land at Pune is out of question.

5. Heard and considered.

6. It is apparent from the application that the same has been preferred merely on the assumption of the accused/applicant herein. Till date no attachment proceedings qua the properties of A-1/applicant has been initiated by the Directorate of Enforcement. Therefore, the applicant herein is rather prompting or directing the E.D to attach one particular property. It is the domain of Investigating Authority to proceed in the manner as required under the law on basis of investigation conducted on their end and the accused/applicant herein cannot dictate the investigating agency in this regard. Therefore, the present application in hand is dismissed being devoid of any merits.

Announced in the open Court
07.12.2023

(GAGANDEEP SINGH)
Special Judge, PC Act, CBI-04
Rouse Avenue Courts, New Delhi