



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Criminal Revision Petition No. 1927/2024

Ved Prakash Yadav Son Of Ramdev Yadav, Aged About 57 Years,  
Resident Of Plot No. 50, Ashok Vihar, Behind Chauhan Hospital  
Jhotwara Road, Police Station Jhotwara District Jaipur  
(Rajasthan) Presently Confined In Central Jail Jaipur



-----Petitioner

Versus

Directorate Of Enforcement, Through Assistant Deputy Director  
Second Floor, Jeevan Nidhi Second Lic Building Bhavani Singh  
Road, Jaipur Rajasthan 302005

-----Respondent

|                   |   |                                                                   |
|-------------------|---|-------------------------------------------------------------------|
| For Petitioner(s) | : | Mr.Dheeraj Singhal with<br>Mr.Pankaj Singhal &<br>Ms.Bhawna Hadda |
| For Respondent(s) | : | Mr.Akshay Bhardwaj with<br>Mr.Jaivardhan Singh Shekhawat          |

**JUSTICE ANOOP KUMAR DHAND**

**Order**

**13/10/2025**

1. By way of filing this petition, a challenge has been led to the impugned order dated 21.03.2024 passed by the Special Judge, PMLA and CBI Cases No.3, Jaipur Metro-I in criminal complaint case No.5/2024 by which cognizance has been taken against the petitioner under Section 3/4 of the Prevention of Money Laundering Act, 2002 (for short, "the Act of 2002").
2. Learned counsel for the petitioner submits that the petitioner is a public servant and after filing of the charge-sheet against him, cognizance has been taken for the above stated offences without taking prosecution sanction under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "the BNSS").



3. Learned counsel for the petitioner submits that in absence of sanction to prosecute the petitioner neither the charge-sheet can be filed nor the cognizance can be taken.

4. In support of his contention, counsel for the petitioner has placed reliance upon the judgment passed by the Hon'ble Apex Court in the cases of **Enforcement Directorate Vs. Bhibhu Prasad Acharya** reported in **(2025) 1 SCC 404**, **Anil Tuteja Vs. Enforcement Directorate** in **Criminal Revision Petition No.246/2025** decided by **High Court of Chhattisgarh at Bilaspur** & **P. Chidambaram Vs. Enforcement Directorate** in **Criminal Miscellaneous Case No.8996/2024** decided by the Delhi High Court. Counsel submits that under these circumstances, interference of this Court is warranted.

5. *Per contra*, learned counsel appearing on behalf of respondent opposed the arguments raised by counsel for the petitioner and submitted that a huge amount of Rs.2,31,15,000/- in cash along-with one gold bar amounting to Rs.61,00,000/- were found in the almirah and the same was in possession of the petitioner. Counsel submits that the offence committed by the petitioner does not fall within the official discharge of duties, hence, under these circumstances, sanction under Section 218 of the BNS is not required to be taken for prosecution of the petitioner. Counsel submits that on the finding of prima facie case against the petitioner, cognizance has been taken by the learned Trial Judge against the petitioner for the above stated offences, hence, interference of this Court is not warranted and the instant petition is liable to be rejected.





6. In support of his contention, counsel for the respondent has placed reliance upon the judgment passed in the case of **Shambhoo Nath Misra Vs. State of U.P. & Ors.** reported in **(1997) 5 SCC 326.**



7. The only argument which has been raised before this Court is that the petitioner is a public servant and without getting sanction from the Department, he has been prosecuted and cognizance has been taken against him under Section 3/4 of the PMLA Act.

8. Section 218 of BNSS deals with the procedure of prosecution of judges and public servants. For ready reference, the same is reproduced as under:-

**"218. Prosecution of Judges and public servants**

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)—

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b)



during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted:

Provided further that such Government shall take a decision within a period of one hundred and twenty days from the date of the receipt of the request for sanction and in case it fails to do so, the sanction shall be deemed to have been accorded by such Government:

Provided also no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 64, section 65, section 66, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79, section 143, section 199, or section 200 of the Bharatiya Nyaya Sanhita, 2023.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.





(4) Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(5) The Central Government or the State Government, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held."

9. Section 218 of BNSS postulates the procedure for prosecution any person who is a public servant not removable from his office, save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him, while acting or purporting to act in the discharge of his official duty. In the instant case, the allegation against the petitioner is that when a search was made, it was found that a sum of Rs.2,31,15,000/- in cash along-with one gold bar amounting to Rs.61,00,000/- were found in a bag kept in the almirah of the petitioner's residence and the same was found to be in possession of the petitioner.

10. In the considered opinion of this Court, the aforesaid alleged act does not fall within the purview of "an act performed in official discharge of duties" and under these circumstances, it was incumbent upon the respondent to get the previous sanction to prosecute the petitioner. This Court finds no merit and substance in



this petition and the judgments relied by counsel for the petitioner are not applicable in the facts and circumstances of this case. Accordingly, the instant petition stands rejected.

11. Before parting with this order, it is made clear that several observations made by this Court are only for the purpose of deciding the validity of the order passed by the Court below and the petitioner would be at liberty to take all the appropriate defence at the appropriate stage. It is expected from the trial Court to deal with available defence of the petitioner strictly in accordance with law, without being influenced by any of the observations made by this Court.

(ANOOP KUMAR DHAND),J

Aayush Sharma /4

