

2025 LiveLaw (SC) 371

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
ABHAY S. OKA; J., UJJAL BHUYAN; J.**

12th February, 2025

ARUN PATI TRIPATHI *versus* DIRECTORATE OF ENFORCEMENT

Prevention of Money Laundering Act, 2002 – Accused cannot be kept in custody if order taking cognizance of Enforcement Directorate (ED) complaint has been quashed. (Para 5)

CRIMINAL APPEAL NO.725 OF 2025 (ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CRIMINAL) NO. 16219 OF 2024)

[Arising out of impugned final judgment and order dated 25-10-2024 in MCRC No. 6598/2024 passed by the High Court of Chhatisgarh at Bilaspur]

For Petitioner(s): Ms. Meenakshi Arora, Sr. Adv. Mr. Shishir Prakash, Adv. Ms. Karuna Krishan Thareja, Adv. Mr. Mohit D. Ram, AOR Ms. Nanakey Kalra, Adv. Mr. Anubhav Sharma, Adv. Ms. Nayan Gupta, Adv. Mr. Siddhartha Dave, Sr. Adv. Ms. Pallavi Sharma, AOR Mr. Harshwardhan Parganiha, Adv. Mr. Anshul Rai, Adv. Mr. Ravilochan Dalioarhi, Adv. Mr. Harshit Sharma, Adv. Ms. Tanisha Kaushal, Adv.

For Respondent(s): Mr. Suryaprakash V.raju, A.S.G. Mr. Zoheb Hossain, Adv. Mr. Annam Venkatesh, Adv. Mr. Chandra Prakash, Adv. Mr. Hitarth Raja, Adv. Mr. Arvind Kumar Sharma, AOR Ms. Aakriti Mishra, Adv. Ms. Aditi Singh, Adv.

ORDER

Leave granted.

2. In connection with ECIR/RPZO/04/2024, the appellant was arrested on 8th August, 2024. A supplementary complaint under Section 44 of the Prevention of Money Laundering Act, 2002 (for short, 'PMLA') was filed naming the appellant as an accused on 5th October, 2024. Cognizance was taken by the Special Court on 5th October, 2024 itself. The order taking cognizance was challenged by the appellant before the High Court. The High Court by judgment dated 7th February, 2025 has set aside the cognizance order and has granted liberty to the respondent to proceed again after obtaining a sanction. Thereafter, an application has been moved by the respondent before the Special Court for taking cognizance by relying upon sanction granted on 6th February, 2025.

3. As of today, the position is that though complaint was filed on 5th October 2024, an order taking cognizance is not in existence. The respondent has acted upon order dated 7th February, 2025 by making application dated 7th February, 2025 before the Special Court, requesting the Court to take cognizance. Now, the Special Court will have to examine the case again. As there is a sanction, the issue to be considered will be whether the sanction is valid. All this will have to be examined by the Special Court.

4. Appellant is in custody from 8th August, 2024. Order taking cognizance passed by the Special Court has been set aside by the High Court and by acting upon the order of the High Court, a fresh application has been moved by the respondent for taking cognizance. The said application is yet to be heard by the Special Court.

5. In view of these peculiar facts, custody of the appellant cannot be continued. As there are serious allegations against the appellant, appropriate stringent terms and conditions can be imposed by the Special Court. We direct the respondent to produce the appellant before the Special Court within a period of one week from today. The Special Court shall enlarge the appellant on bail, pending the complaint, subject to stringent terms and conditions, including the condition of surrender of passport. Another condition will be

of appellant furnishing undertaking to the Special Court stating that, in case, cognizance of the complaint is taken, he will regularly and punctually attend the Special Court and shall cooperate with the Special Court for the early disposal of the case. In the event, it is found that, the appellant is not cooperating with the Special Court, it will be open for respondent to apply for cancellation of bail.

6. In view of the above, the appeal stands allowed.

7. Pending application(s), if any, stands disposed of.

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