

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.5009 OF 2024  
[ARISING FROM SLP (CrI.) No. 10101/2024]**

**NIRANKAR NATH PANDEY**

**APPELLANT(S)**

**VERSUS**

**STATE OF U.P. & ORS.**

**RESPONDENT(S)**

**O R D E R**

1. Leave granted.
2. The Appeal before us is against the order of the High Court of Allahabad dated 11.01.2024 whereby the High Court has refused to quash the FIR lodged against the Appellant.
3. The factual background of the present case is that FIR No.0002 of 2023 dated 17.10.2023 was registered as Case Crime No.0002 of 2023 against the Appellant under Section 13(1)(b) read with Section 13(2) of Prevention of Corruption Act, 1988(Hereinafter, PC Act). The Appellant filed Criminal Miscellaneous Writ Petition No.18777 of 2023 before the High Court for quashing of the said FIR. The High Court vide order dated 11.01.2024 dismissed the Appellant's Writ Petition. Aggrieved by this, the Appellant is before us.
4. Prior to the present FIR, another FIR was lodged in the year 2018, bearing Case Crime No.476 of 2018 for offences under Section 420, 467, 468, 471, 120B of

the Indian Penal Code, 1860 read with Section 13(1)(d) and 13(2) of the PC Act in Police Station Kotwali, District Fatehpur, U.P against some officials of the Excise Department, U.P., wherein the present Appellant was implicated and he was subsequently enlarged on bail. This Case Crime No.476 of 2018 is pending before the Trial Court.

5. Due to the earlier FIR, a notice dated 25.08.2020 was issued to the Appellant by the Department of Vigilance Establishment, U.P. whereby the Appellant was directed to submit the Statement of Declaration of Assets and other income details. Pursuant to this notice, the Appellant submitted all such details before the Uttar Pradesh Vigilance Department.
6. The Appellant was working as Assistant Excise Commissioner when the Uttar Pradesh Vigilance Establishment initiated an inquiry against him. This open inquiry disclosed the Appellant's income from known and legitimate sources during the period of checking as Rs.94,28,605/- (Rupees Ninety Four Lakh Twenty Eight Thousand Six Hundred Five only). For the same period, the Appellant was found to have amassed assets including living expenses worth Rs.1,16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only). The Appellant is said to have amassed assets including expenses of around Rs.21,74,064/- (Twenty One Lakh Seventy Four Thousand Sixty Four only) more than his known income. This is said to be the

disproportionate assets in question. The Inquiry Report was forwarded to the Government on 20.03.2023 by the Joint Director, Uttar Pradesh Vigilance Establishment and directions were issued vide Demi-Government Letter dated 20.04.2023 issued by the Vigilance Department, Government of U.P. for institution of criminal proceedings against the Appellant. Consequent to this, the present FIR was registered against the Appellant based on the complaint of Inspector, Uttar Pradesh Vigilance Establishment Sector, Ayodhya.

7. We have heard the learned counsel for the parties and perused the relevant material.
8. The Appellant has declared his and his wife's assets consequent to notice dated 25.08.2020. It is stated that the wife of the Appellant is also earning from teaching yoga, agriculture, and from receiving house rent. It is submitted that the Appellant's total income since 1996 to 2020 is Rs.75,73,676/- (Seventy-Five Lakh Seventy-Three Thousand Six Hundred Seventy Six only) and the income of his wife during the aforesaid period is about Rs.41,67,592/- (Rupees Forty One Lakh Sixty Seven Thousand Five Hundred Ninety Two only). These declarations are supported by the relevant income tax returns. The ornaments of the Appellant's wife have been sold for an amount of Rs.2,16,000/- (Rupees Two Lakh Sixteen Thousand only) and the Appellant received Rs.1,00,000/- (Rupees One Lakh only) from a Life Insurance Policy

plus there is an amount of Rs.49,000/- (Rupees Forty Nine Thousand only) that was given to the Appellant by his father. Therefore, the total income and assets of the Appellant and his wife has been submitted to be Rs.1,21,06,268/- (Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) during the period of 1996 to June 2020. Further, the Appellant has explained and submitted documents regarding the properties owned by him and his wife and a loan given by the Bank. This has not been considered by the Uttar Pradesh Vigilance Department. The present FIR is lodged on the basis of the Uttar Pradesh Vigilance Establishment *prima facie* finding the Appellant guilty. However, if we consider the declared assets of the Appellant and his wife for the aforesaid period it comes up to Rs.1,21,06,268/- (Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only). The present FIR states the disproportionate assets to be Rs.1,16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) for the same period.

9. We are of the view that the Appellant's wife's income must be considered as well while calculating the total income and assets. Both the Appellant and his wife have filed the relevant income tax returns in order to show their respective incomes and assets. The Respondents in their Counter-Affidavit have not denied these income tax returns or alleged them to be forged or fabricated. Therefore, when a public servant

is submitting his income tax returns, they should be presumed to be true and correct. If you duly consider the income tax returns of the Appellant and his wife for the check period of the year 1996-2020, the total income is coming up to be Rs.1,21,06,268/- (Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) which is in fact more than the assets amounting to Rs.1,16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) which is said to be the disproportionate assets in question under the present FIR.

10. Further, we have considered that the check period is from the year 1996 to 2020, which is almost twenty five years. It must be taken into account that over such a long period of time, there is inflation and a natural progression in the changing economy that affects the value of assets such as property. This can understandably lead to discrepancies in declaring the value of assets over the years. Therefore, there should be a more dynamic approach while considering an individual's income and assets over the span of two decades, such as in the present case. The notion that the declared value of an asset such as property or gold will remain static is flawed. This has to be considered while examining an individual's assets and income while making a determination regarding disproportionate assets. Such an examination needs to reflect such adjustments and changes as is natural

with the progression of time.

11. We find it pertinent to note that in cases such as these where disproportionate assets are being dealt with, the amounts under scrutiny cannot be looked at in the same manner as one would do a Bank statement or daily ledger of income and expenditure. The scrutiny process cannot be as mechanical as that when you are examining declared assets and the income of an individual over such a long period of time. There has to be a certain margin that is given while making such an assessment as there are invariably economical fluctuations that would have taken place, especially over the course of nearly twenty-five years. It is crucial to have a nuanced appreciation of how time and economic conditions affect asset value in such cases.
12. This Court has held in ***State of Haryana vs. Bhajan Lal***, 1992 SCC (Cri) 426 that when allegations made in the first information report or the complaint, even if they are taken at their face value do not prima facie constitute any offence or make out a case against the accused, powers under Article 226 of the Constitution of India could be exercised to prevent abuse of the process of any court. We find that the present FIR in question and the case against the Appellant is covered under these findings in **Bhajan Lal (supra)**.
13. In view of the above discussion, we find it appropriate to quash FIR No, 0002 of 2023 dated 17.10.2023

pending against the Appellant. Consequently, the appeal is allowed.

14. Pending application(s) shall stand disposed of.

.....,J.  
(VIKRAM NATH)

.....,J.  
(PRASANNA B. VARALE)

**NEW DELHI;  
DECEMBER 04, 2024.**