NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.659 of 2015

Pushpa Devi Agrawal W/o Shri Radheshyam Agrawal Aged About 65 Years R/o Jaisthambh Chowk, Umaria District Umaria (Madhya Pradesh)

---- Petitioner

Versus

State Of Chhattisgarh Through Station House Officer. P.S. Economic Offences Wing/ Anti Corruption Bureau, Raipur Chhattisgarh

---- Respondent

For Petitioner: Shri Anil Khare, Sr. Adv. With Shri Varun Sharma, Advocate
For Respondent/State: Shri Vivek Sharma, Govt. Advocate

Order On Board

14/09/2015

The applicant has preferred this application under Section 438 of Cr.P.C., apprehending her arrest in connection with Crime No.05/2015, registered at Police Station–Economic Offences Wing/Anti Corruption Bureau, Raipur for alleged commission of offence under Sections 13(1)(e) of the Prevention of Corruption Act, 1988 and Section 109, 420, 467, 468, 471, 120-B of IPC.

2. Prosecution case is that the applicant's son Alok Kumar Agrawal, while working as a Engineer in Public Works Department, collected and possessed more than Rs.30 Crores through corrupt means misusing his official position. The allegation is that the government servant siphoned and got invested the ill-gotten money through number of relatives in the name of fake and bogus business activities and investments. As far as present applicant is concerned, who is mother of the government servant, the allegation is that more than 1 Crore of ill-gotten wealth collected through corrupt means was falsely shown to have been earned by the present applicant through fake business of sale and purchase of forest produce,

agricultural income and rental income etc.

3. Learned Senior Counsel for the applicant submits that the present applicant is being involved in this case on the allegation that ill-gotten wealth earned by her son, a government servant, was shown as earned by the present applicant through various business activities, which have been treated as fake and bogus. It is submitted that the applicant is income tax payee and filing income tax return since 1999. She is residing with her husband-Radheshyam Agrawal at Umariya and not residing with her son, the government servant, who is stated to be the main accused. It is next submitted that the applicant in her income tax return had duly disclosed income received from various occupations like sale and purchase of forest produce, agricultural income and rental income. At this stage, none of the income alleged against the applicant is undisclosed. The allegation that the son of the applicant siphoned black money through the applicant is without any basis. The income tax returns prima facie shows that the applicant has collected wealth through valid source which has been duly disclosed in the income tax returns since long. It is submitted that the applicant has been residing with her husband, who is also businessman since 1960 and he is also income tax payee. Merely because, son of the applicant is alleged to have collected ill-gotten wealth through corrupt means, each and every income of the applicant, cannot be doubted as the one diverted from her son. It is lastly submitted that the applicant is an old aged lady of 65 years suffering from various ailments and permanent resident of Umariya, where she is residing with her husband. She is neither likely to abscond nor in a position to tamper with the prosecution witnesses nor is there any such allegation against her. Grant of anticipatory bail to the applicant would not hamper fair investigation. Even before registering offence, the applicant had disclosed each and every information sought by the Anti Corruption Bureau while carrying out investigation in connection with the allegations against the applicant's son, the government servant and whatever information required from the applicant including various records of property, agricultural income, rental income and investments have been duly disclosed and at

this stage, when the government servant-Alok Agrawal and other co-accused-Pawan Agrawal have already been arrested, the material sought to be collected being documentary in nature, which has already been collected, custodial interrogation of the applicant is not necessary. Reliance is placed on the judgment in the case of ***Siddharam Satlingappa Mhetre vs. State of Maharashtra, (2011) 1 SCC 694***.

4. On the other hand, learned State counsel opposes the prayer for grant of bail and submits that there are serious allegations against the main accused-Alok Agrawal, government servant, who is alleged to have amassed huge wealth, disproportionate to his known sources of income, which is more than 30 crores. In the case during investigation, it has been found that the government servant siphoned ill-gotten wealth to his own brother, father, mother and close associates. It has been alleged that in the name of these co-accused, fake and bogus business transactions and activities were shown and they started submitting income tax returns showing bogus income from fake business activities. The allegation against the applicant is that though she is a house lady and does nothing, in her name, number of fake and bogus business income were shown, which actually are not being carried on. During investigation, it has been found that the business of sale and purchase of forest produce has been closed after 2011. Huge rental income is not corresponding to the actual rent received by the applicant from the properties. Agricultural land, from which, huge agricultural income is shown in the income tax returns are more or less unfertile land, from which, meager income could be collected. During the check period from 01-04-2004 to 01-09-2015, as many as 11 plots 1 flat is shown to have been purchased in the name of the present applicant and it has come during investigation that all dealings were done by Pawan Agrawal and the applicant is owner for namesake and in the bank account of the applicant, more than 20 lakhs have been found and there are as many as 7 fixed deposits. From all these material, it is prima facie found that the applicant aided and abetted in commission of offence by her son-Alok Agrawal by showing these ill-gotten wealth as her earned income from so-called business. It is also submitted that as far as other

accused Alok Agrawal and Pawan Agrawal are concerned, their regular bail applications have already been rejected by this Court, and therefore, the applicant is not entitled to bail.

5. The applicant is the mother of the government servant and is an old aged lady of 65 years. She is stated to be residing with her husband-co-accused Radheshyam Agrawal at Umariya. Husband of the applicant said to be carrying out business activities since 1960. Allegation against the present applicant is that though she is actually not involved in aforesaid business activities, but only in order to siphon ill-gotten wealth of her son-Alok Agrawal, she is shown to be income tax assessee since 1999 and whatever income she claims to have earned through various business, are bogus and fake. According to the prosecution, the applicant has been used by her son to convert black money to white money by showing her as involved in number of business activities and whatever income applicant claims to have earned are nothing but it is ill-gotten wealth of her son.

6. Material on record shows that in the present case, the investigation has been completed and the main accused-Alok Agrawal (government servant) has already been arrested. As far as present applicant is concerned, she appears to be an old lady of 65 years. Different income has been shown in the name of present applicant since 1999 and the present is a case where her disclosed income in the income tax returns has been alleged to be ill-gotten wealth of her son. Moreover, it is found that she has disclosed information regarding income to the police authorities from time to time and the learned State counsel could not bring to the notice of this Court any material to show that the applicant did not provide relevant information as and when she was noticed in the past.

7. Therefore, in these circumstances, particularly looking to the fact that the main accused has already been arrested and the charge sheet has been filed and most of the incriminating material, which pertains to involvement of the present applicant, are

more or less documentary in nature, which have already been collected by the prosecution and further taking into consideration that the applicant is an old aged lady of 65 years and stated to be suffering from various ailments and she is neither likely to abscond nor in a position to hamper investigation and filing of charge sheet in so far as present applicant is concerned, her case being different from the main accused Alok Agrawal and co-accused-Pawan Agrawal, who have already been arrested, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail on furnishing a personal bond for a sum of Rs.50,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(i) she shall make herself available for interrogation by a police officer as and when required;

(ii) she shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*

(iii) she shall cooperate with the investigation as and when she iscalled.

Sd/-
Manindra Mohan Shrivastava

Judge

Tumane