

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr) No.122 of 2018

Smt. Alpana Pandey W/o Mayank Pandey, aged about 47 years, R/o Ghanshyam Homes, B/602, Vyapar Vihar, Bilaspur, Dist.-Bilaspur (CG)

--- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Home Department, Mahanadi Bhawan, New Raipur C.G.
2. The Station House Officer, Police Station Tarbahar, Bilaspur, Dist.-Bilaspur, C.G.
3. The Branch Manager, Axis Bank, Vyapar Vihar, Bilaspur, Dist.-Bilaspur C.G.

--- Respondents

For Petitioner	:	Mr.Rakesh Pandey, Advocate
For Respondents No.1 and 2	:	Mr.Ghanshyam Patel, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

25/04/2019

1. Mr.Rakesh Pandey, learned counsel for the petitioner, would submit that bank account of the petitioner has been freezed by the State Police in connection with the offence alleged to have been committed by her husband, which is unsustainable and bad in law.
2. Mr.Ghanshyam Patel, learned Government Advocate appearing for respondents No.1 and 2, would submit that bank account of the petitioner was used in commission of offence under Sections 420, 468, 471, 120-B of the IPC and therefore, the police officer in investigating the offence was justified in freezing the said account.
3. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
4. The issue involved in this petition came to be considered before the Supreme Court in the matter of Teesta Atul Setalvad v. State of

Gujarat¹ in which Their Lordships have held as under:-

“25. Suffice it to observe that as the investigating officer was in possession of materials pointing out circumstances which create suspicion of the commission of an offence, in particular, the one under investigation and he having exercised powers under Section 102 of the Code, which he could, in law, therefore, could legitimately seize the bank accounts of the appellants after following the procedure prescribed in sub-section (2) and sub-section (3) of the same provision. As aforementioned, the investigating officer after issuing instructions to seize the stated bank accounts of the appellants submitted report to the Magistrate concerned and thus complied with the requirement of sub-section (3).

26. Although both sides have adverted to statement of accounts and vouchers to buttress their respective submissions, we do not deem it necessary nor think it appropriate to analyse the same while considering the matter on hand which emanates from an application preferred by the appellants to de-freeze the stated bank accounts pending investigation of the case. Indisputably, the investigation is still in progress. The appellants will have to explain their position to the investigating agency and after investigation is complete, the matter can proceed further depending on the material gathered during the investigation. The suspicion entertained by the investigating agency as to how the appellants appropriated huge funds, which in fact were meant to be disbursed to the unfortunate victims of 2002 riots will have to be explained by the appellants. Further, once the investigation is complete and police report is submitted to the court concerned, it would be open to the appellants to apply for de-freezing of the bank accounts and persuade the court concerned that the said bank accounts are no more necessary for the purpose of investigation, as provided in sub-section (3) of Section 102 of the Code. It will be open to the court concerned to consider that request in accordance with law after hearing the investigating agency, including to impose conditions as may be warranted in the fact situation of the case. ”

5. Accordingly, the writ petition is disposed of in the light of binding observation made by the Supreme Court in **Teesta Atul Setalvad** (supra). However, the petitioner is at liberty to make an application

¹ (2018) 2 SCC 372

for de-freezing bank account before the trial Court in accordance with law. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-