IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14882 of 2018

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Rubi Devi W/o Anirudh Singh @ Arun Singh, House No. C-30, Vijay Nagar, P.S.-Patrakar Nagar, Distt.-Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Excise Department, Bihar, Patna.
3. District Magistrate, Saran at Chhapra.
4. The Superintendent of Police, Saran at Chhapra.
5. S.H.O. Manjhi Police Station, Sarant at Chhapra.
6. Branch Manager ICICI Branch Office, Ram Krishna Nagar, Kankarbagh, Patna.

... ... Respondent/s

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Appearance :

For the Petitioner/s : Mr.Anirudh Kumar Sinha, Adv

For the Respondent/s : Mr.Vikash Kumar -SC11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per:HONOURABLE MR. JUSTICE S. KUMAR)

Date : 17-12-2020

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "That this is an application for issuance of an appropriate writ(s), Order(s), direction(s) for releasing accounts along with ATM Cards bearing NO. 334201000274, ICICI Bank, Branch Office, Bye Pass Road, Kankarbagh to A/C No. 334201500. A/c NO. 334201000271 of ICICI Bank Bye Pass road Ram Krishna Nagar and belonging to petitioner and her son which have been seized/held up on connection with FIR No. 302/17, dated 27.12.17 lodged in Manjhi P.S. and also to pass consequential order."

The Apex Court in the case of **State of Maharashtra Vs Tapas D. Neogy** since reported in **(1999) 7 SCC 685**, in para

12 has held that police officer/investigating officer in course of investigation can seize or prohibit the operation of bank, if same has links with the commission of the offence, the relevant paragraph no. 12 is reproduced hereinbelow:-

> “Having considered the divergent views taken by different High Courts with regard to the power of seizure under Section 102 of the Code of Criminal Procedure, and whether the bank account can be held to be `property' within the meaning of said Section 102(1), we see no justification to give any narrow interpretation to the provisions of the Criminal Procedure Code. It is well known that corruption in public offices has become so rampant that it has become difficult to cope up with the same. Then again the time consumed by the Courts in concluding the trials is another factor which should be borne in mind in interpreting the provisions of Section 102 of the Criminal Procedure Code and the underlying object engrafted therein, inasmuch as if there can be no order of seizure of the bank account of the accused then the entire money deposited in a bank which is ultimately held in the trial to be the outcome of the illegal gratification, could be withdrawn by the accused and the Courts would be powerless to get the said money which has any direct link with the commission of the offence committed by the accused as a public officer. **We are, therefore, persuaded to take the view that the bank account of the accused or any of his relation is `property' within the meaning of Section 102 of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct links with the commission of the offence for which the police officer is investigating into.**”

emphasis is mine.

The Apex Court in the case of **Teesta Atul Setalvad Vs. State of Gujarat** since reported in **(2018) 2 SCC 372,** has held as follows:-

"5. Be that as it may, the criminal revision applications preferred by the appellants before the High Court of Gujarat, challenging the order dated 28th November, 2014 passed by the Magistrate rejecting the prayer for lifting of the bank account freezing, were finally heard and dismissed vide common judgment dated 6th/7th October, 2015.

This order is the subject matter of the present appeals. In other words, the limited issue to be addressed in the present appeals is about the justness of the action of the Investigating Officer of freezing of stated bank accounts of the appellants in connection with FIR registered as CR No.1/2014; and the correctness of the approach of the Magistrate in rejecting the request for de-freezing the bank accounts of the appellants as affirmed by the High Court vide impugned judgment.

23. 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 concerned Court, it would be open to the appellants to apply for de-freezing of the bank accounts and persuade the concerned Court 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 concerned Court 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."

The writ petition is disposed of with liberty to petitioner to approach the concerned Special Court(Excise) where excise case is pending and file a petition to de-freeze her bank account which has been freezed by the police in connection with Manjhi P.S. Case No. 302 of 2017 dated 27.12.2017 instituted under Sections 38, 30, 30(a) of the Bihar Prohibition & Excise Act, and the Special Court (Excise), shall dispose of such petition in light of observations made as above.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
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