IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44707 of 2019
Arising Out of PS. Case No.-5 Year-2013 Thana- GOVERNMENT OFFICIAL COMP. District- Patna

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Bibha Devi @ Bibha Kumari, wife of Ashok Kumar Yadav, Resident of Village- Chhechhani, P.S. Bithan, District Samastipur.

... ... Petitioner

Versus

Union Of India through Directorate of Enforcement, Government of India, 1st Floor, Chandpura Place, Bank Road, West Gandhi Maidan, Patna.

... ... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Nilesh Kumar, Advocate
For the Union of India	:	Dr. K.N. Singh, Addl. S.G.
		Mr. Amarjeet, J.C. to Addl.S.G.
		Mr. Prabhat Kumar Singh, J.C. to Addl.S.G.
For E.D.	:	Mr. Manoj Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 29-11-2022

Heard Sri Y.V. Giri, learned senior counsel for the petitioner, Dr. K.N. Singh, learned Additional Solicitor General of India assisted by Sri Manoj Kumar Singh, learned counsel for the Enforcement Department and Sri Jharkandi Upadhyay, leaned APP for the State.

2. In this case, the petitioner is seeking anticipatory bail in connection with Special Trial No. (PMLA) 09 of 2018, arising out of ECIR No. PTZO/05/2013 and PTZO/02/2018 registered for the offence punishable under Section 4 of the Prevention of Money Laundering Act, 2002.

3. One Ashok Yadav @ Ashok Kumar Yadav, who is facing prosecution in 26 FIRs/Charge-sheets under different Police Stations, as mentioned in the complaint petition filed by the Enforcement Directorate (hereinafter referred to as "ED"), recorded as ECIR No. PTZO/05/2013 and PTZO/02/2018. Investigation was initiated against said Ashok Kumar Yadav and others under various provisions of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "PML Act, 2002") as some of the cases registered against Ashok Kumar Yadav are 'scheduled' offences under the PML Act, 2002, who had acquired mon2ey through proceeds of crime.

3.1. During investigation under PML Act, 2002, it has been found that Rs.35,37,433/- has been invested by him in the form of immovable properties at Samastipur in his name as well as in the name of his father Rajendra Yadav, brother Birendra Yadav, brother's wife Ahilya Devi and wife (petitioner). Rs.86,67,720/- was found deposited in the bank account of the petitioner during the period 2010-11 to 2013-14. It is also alleged by the ED that Ashok Yadav has acquired a house at Rukunpura, Patna, in the name of his wife (petitioner) which has value of Rs.27,20,279/-. It is further alleged in the complaint petition that petitioner has not filed any income tax return for the period 2010-11 but, from perusal of the statement of the bank account of the petitioner it was found that Rs.47,17,270/- was deposited in her account. Some other properties were also purchased by her and thus, total assets of Rs.78,32,227/- has been created by the petitioner during the financial year 2010-11 not from the legal source of income but from the proceeds of crime generated by Ashok Kumar Yadav.

4. Sri Y.V. Giri, learned senior counsel for the petitioner has submitted that the petitioner is innocent and has committed no offence as has been alleged in the complaint petition and the allegations levelled by the E.D. has been denied by the petitioner. He has further submitted that petitioner was married to Ashok Kumar Yadav in the year 1993 but subsequently, she was deserted and thereafter, Ashok Kumar Yadav married to one Rina Kumari in the year 2004 and they have children out of that wedlock and Ashok Kumar Yadav is living with Rina Kumari either at his village or at Hasanpur.

5. It has further been submitted by learned senior counsel for the petitioner that when the petitioner was deserted by her husband she started living at Bithan since last more than one decade and started working as Shiksha Mitra in the year 2003 and continued on the said post till 2006. Thereafter, the petitioner started dairy as well as scrap business and subsequently, started the business of retail goods. The petitioner was elected as Panchayat Samiti Member of Kanchi Panchayat and thereafter elected as Pramukh of said Panchayat and she continued to hold the said post of Pramukh till 2011. It has also been contended that the petitioner is a lady and she has been made accused only because being the wife of Ashok Kumar Yadav.

6. It has been contended by learned senior counsel for the petitioner that the petitioner is the owner of various business and therefore, she is not involved in laundering of illegal money collected by Ashok Kumar Yadav and the house purchased in Patna is also from her own resources. The petitioner is an income tax assesses since 2003-04. It has also been contended that the petitioner is an LPG dealer of Bharat Petroleum Corporation since financial year 2009-10 and she had also filed a Divorce case in the year 2009 in Khagaria district Court and in that case, she submitted that her husband Ashok Kumar Yadav wanted to kill her. The said matrimonial case has been dismissed by the Court below. In short, the case of the petitioner is that whatever money is lying in her account is from her own income and from her independent resources and no part of amount found in the Bank account of the petitioner belongs to Ashok Kumar Yadav and she has not indulged herself in money laundering.

7. Dr. K.N. Singh, learned Additional Solicitor General of India assisted by Sri Manoj Kumar Singh, learned counsel for the ED has opposed the prayer for anticipatory bail of the petitioner. It has been submitted by him that the petitioner is the wife of Ashok Kumar Yadav. He has relied upon Sections 3 and 24 of the P.M.L. Act, 2002 for opposing the anticipatory bail of the petitioner. It has been submitted that the petitioner has filed Criminal Miscellaneous No. 12653 of 2014 before this Court for quashing of the summons and the same was dismissed by this Court and she along with other accused persons were directed to appear before the ED but they have chosen not to appear before the ED.

8. In the counter affidavit filed by the ED the entire claim of the petitioner that she has independent source of income has been denied and demolished by the ED.

9. Considered the submissions of the parties.

10. The allegations against the petitioner are quite serious. She has indulged in money laundering and despite the orders passed by this Court she did not appear before the ED and not cooperated in the investigation.

11. In these circumstances, this is not a fit case for grant of anticipatory bail. Accordingly, this anticipatory bail application is dismissed. The petitioner is directed to surrender before the Special Judge within four weeks from today.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	22 .12.2022
Transmission Date	